

## CONDOMINIUM PUBLIC REPORT

Prepared &  
Issued by:

Developer KCCC, LLC  
Address 99-880 Iwaena Street, Aiea, Hawaii 96701

Project Name (\*): Kihei Commercial Plaza  
Address: Kahakulani Place, Kihei, Maui, Hawaii 96753

Registration No. 5551

Effective date: July 19, 2005  
Expiration date: August 19, 2006

### Preparation of this Report:

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended. This report is not valid unless the Hawaii Real Estate Commission has issued a registration number and effective date for the report.

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

**Buyers are encouraged to read this report carefully, and to seek professional advice before signing a sales contract for the purchase of an apartment in the project.**

Expiration Date of Reports: Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the effective date unless a Supplementary Public Report is issued or unless the Commission issues an order, a copy of which is attached to this report, extending the effective date for the report.

Exception: The Real Estate Commission may issue an order, a copy of which shall be attached to this report, that the final public report for a two apartment condominium project shall have no expiration date.

### Type of Report:

       **PRELIMINARY:**      The developer may not as yet have created the condominium but has filed with  
(yellow)                      the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued by the developer when complete information is filed.

       **FINAL:**                The developer has legally created a condominium and has filed complete  
(white)                      information with the Commission.  
[ ]      No prior reports have been issued.  
[ ]      This report supersedes all prior public reports.  
[ ]      This report must be read together with \_\_\_\_\_

  X   **SUPPLEMENTARY:**      This report updates information contained in the:  
(pink)                              [X]      Preliminary Public Report dated: February 11, 2005  
   [ ]      Final Public Report dated: \_\_\_\_\_  
   [ ]      Supplementary Public Report dated: \_\_\_\_\_

And                              [X]      Supersedes all prior public reports.  
   [ ]      Must be read together with \_\_\_\_\_  
   [ ]      This report reactivates the \_\_\_\_\_  
   public report(s) which expired on \_\_\_\_\_

(\*) Exactly as named in the Declaration

*This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request.*

FORM: RECO-30 286/986/189/1190/692/0197/1098/0800/0203/0104

**Disclosure Abstract:** Separate Disclosure Abstract on this condominium project:

☒ Required and attached to this report      ☐ Not Required - Disclosures covered in this report.

**Summary of Changes from Earlier Public Reports:**

This summary contains a general description of the changes, if any, made by the developer since the last public report was issued. It is not necessarily all inclusive. Prospective buyers should compare this public report with the earlier reports if they wish to know the specific changes that have been made.

☐ No prior reports have been issued by the developer.

☒ Changes made are as follows:

Page 1 and 9	Project addresses will be along Kahakulani Place but street numbers will not be assigned until final subdivision approval is granted.
Page 5 & 5a (Persons Connected with the Project)	Brokers' contact information corrected.
Page 12	Reserved and Visitor parking stall assignment revised.
Exhibit "A"	Added list of parking stalls designated as Visitor Stalls. Revised reserved parking stall assignment.
Tab 7 (Sales Contract)	The amount of Payment B of the Purchase Price has been revised. 10.0 total Water Fixture Units are initially assigned to each Unit. Sales Contract will be a reservation agreement until Contingent Final or Final Public Report is issued.
Tab 11 (Escrow Agreement)	Original Condominium Escrow Agreement was superseded by agreement dated 1/21/05

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## **General Information On Condominiums**

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, must be complied with. In addition, certain requirements and approvals of the County in which the project is located must be satisfied and obtained.

Some condominium projects are leasehold. This means that the land or the building(s) and other improvements are leased to the buyer. The lease for the land usually requires that at the end of the lease term, the lessees (apartment owners/tenants) deliver their interest in the land to the lessor (fee property owner). The lease also usually requires that the lessees either (1) convey to the lessor the building(s) and other improvements, including any improvements paid for by the lessees; or (2) remove or dispose of the improvements at the lessee's expense. Leases for individual apartments often require that at the end of the lease term, the lessee deliver to the lessor the apartment, including any improvements placed in the apartment by the lessee.

If you are a typical condominium apartment owner, you will have two kinds of ownership: (1) ownership in your individual apartment; and (2) an undivided interest in the common elements.

"Common elements" are the areas of the condominium project other than the individual apartments. They are owned jointly by all apartment owners and include the land, either in fee simple or leasehold, and those parts of the building or buildings intended for common use such as foundations, columns, roofs, halls, elevators, and the like. Your undivided interest in the common elements cannot be separated from ownership of your apartment.

In some condominium projects, some common elements are reserved for the exclusive use of the owners of certain apartments. These common elements are called "limited common elements" and may include parking stalls, patios, lanais, trash chutes, and the like.

You will be entitled to exclusive ownership and possession of your apartment. Condominium apartments may be individually bought, sold, rented, mortgaged or encumbered, and may be disposed of by will, gift, or operation of law.

Your apartment will, however, be part of the group of apartments that comprise the condominium project. Study the project's Declaration, Bylaws, and House Rules. These documents contain important information on the use and occupancy of apartments and the common elements as well as the rules of conduct for owners, tenants, and guests.

## **Operation of the Condominium Project**

The Association of Apartment Owners is the entity through which apartment owners may take action with regard to the administration, management, and operation of the condominium project. Each apartment owner is automatically a member of the Association.

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment owner. The Board of Directors and officers can take certain actions without the vote of the owners. For example, the board may hire and fire employees, increase or decrease maintenance fees, borrow money for repair and improvements and set a budget. Some of these actions may significantly impact the apartment owners.

Until there is a sufficient number of purchasers of apartments to elect a majority of the Board of Directors, it is likely that the developer will effectively control the affairs of the Association. It is frequently necessary for the developer to do so during the early stages of development and the developer may reserve certain special rights to do so in the Declaration and Bylaws. Prospective buyers should understand that it is important to all apartment owners that the transition of control from the developer to the apartment owners be accomplished in an orderly manner and in a spirit of cooperation.

## I. PERSONS CONNECTED WITH THE PROJECT

Developer: KCCC, LLC Phone: (808) 487-1445  
Name\* 99-880 Iwaena Street  
Business Address Aiea, Hawaii 96701  
(Business)

Names of officers and directors of developers who are corporations; general partners of a partnership; partners of a Limited Liability Partnership (LLP); or manager and members of a Limited Liability Company (LLC) (attach separate sheet if necessary):

Valentine Peroff, Jr., Manager

Real Estate Broker\*: Pacific Commercial Realty Corp. Phone: (808) 532-1925  
Name 600 Kapiolani Boulevard, Suite 200  
Business Address Honolulu, Hawaii 96813  
(Business)

Escrow Title Guaranty Escrow Services, Inc. Phone: (808) 244-7924  
Name 235 Queen Street, First Floor  
Business Address Honolulu, Hawaii 96813  
(Business)

General Contractor\*: SteelTech, Inc. Phone: (808) 487-1445  
Name 99-880 Iwaena Street  
Business Address Aiea, Hawaii 96701  
(Business)

Condominium Managing Agent\*: Commercial Properties of Maui Management, Inc. Phone: (808) 243-8600  
Name 1962B Wells Street  
Business Address Wailuku, Hawaii 96793  
(Business)

Attorney for Developer: Brad Y. C. Wong Phone: (808) 534-4803  
Law Offices of Wesley Y. S. Chang  
Name 841 Bishop Street, Suite 702  
Business Address Honolulu, Hawaii 96813  
(Business)

\* For Entities: Name of corporation, partnership, Limited Liability Partnership (LLP), or Limited Liability Company (LLC)

Real Estate

Broker: Prudential Commercial Services Iwado Realty  
296-A Alamaha Street  
Kahului, Maui, Hawaii 96732

Phone: (808) 877-9000

Real Estate

Broker: Commercial Properties of Maui, LLC  
1955 Main Street, Suite 400  
Wailuku, Hawaii 96793

Phone: (808) 244-2200

## II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

A. **Declaration of Condominium Property Regime** contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium project.

The Declaration for this condominium is:

<input checked="" type="checkbox"/>	Proposed		
<input type="checkbox"/>	Recorded -	Bureau of Conveyances:	Document No. _____
			Book _____ Page _____
<input type="checkbox"/>	Filed -	Land Court:	Document No. _____

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]:

B. **Condominium Map (File Plan)** shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:

<input checked="" type="checkbox"/>	Proposed		
<input type="checkbox"/>	Recorded -	Bureau of Conveyances Condo Map No.	_____
<input type="checkbox"/>	Filed -	Land Court Condo Map No.	_____

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]:

C. **Bylaws of the Association of Apartment Owners** govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

<input checked="" type="checkbox"/>	Proposed		
<input type="checkbox"/>	Recorded -	Bureau of Conveyances:	Document No. _____
			Book _____ Page _____
<input type="checkbox"/>	Filed -	Land Court:	Document No. _____

The Bylaws referred to above have been amended by the following instruments [state name of document, date and recording/filing information]:

D. **House Rules.** The Board of Directors may adopt House Rules to govern the use and operation of the common elements and limited common elements. House Rules may cover matters such as parking regulations, hours of operation for common facilities such as recreation areas, use of lanais and requirements for keeping pets. These rules must be followed by owners, tenants, and guests. They do not need to be recorded or filed to be effective. The initial House Rules are usually adopted by the developer.

The House Rules for this condominium are:

☒ Proposed      ☐ Adopted      ☐ Developer does not plan to adopt House Rules

E. **Changes to Condominium Documents** Changes to the Declaration, Condominium Map, and Bylaws are effective only if they are duly adopted and recorded and/or filed. Changes to House Rules do not need to be recorded or filed to be effective.

1. **Apartment Owners:** Minimum percentage of common interest which must vote for or give written consent to changes:

	<u>Minimum Set by Law</u>	<u>This Condominium</u>
Declaration (and Condo Map)	75%*	<u>75%</u>
Bylaws	65%	<u>65%</u>
House Rules	---	<u>Board of Directors</u>

\* The percentages for individual condominium projects may be more than the minimum set by law for projects with five or fewer apartments.

2. **Developer:**

☐ No rights have been reserved by the developer to change the Declaration, Condominium Map, Bylaws or House Rules.

☒ Developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws or House Rules:

Developer has reserved the right, for a period of seven (7) years from the date of recordation of the Declaration, for itself and its agents to amend the Declaration, the Condominium Map and the Bylaws consistent with any grant by Developer or its agents to any public or governmental authority of easements for sewer, drainage, water and other facilities under the usual terms and conditions required by the grantee for such easement rights; any grant to any other person or entity easements for ingress, egress or roadway purposes; and any quitclaim of any easements in favor of the Project which are not required by the Project. Further, Developer may make modifications to Units and the common elements in the Project and/or amend the Declaration, the Condominium Map, the Bylaws and the Project Rules and Regulations as may be necessary or required to effect compliance by the Project, the Association or the Developer with laws which apply to the Project, including, without limitation, the Americans with Disabilities Act and any rules and regulations promulgated thereunder.



### III. THE CONDOMINIUM PROJECT

**A. Interest to be Conveyed to Buyer:**

- [X] Fee Simple: Individual apartments and the common elements, which include the underlying land, will be in fee simple.
- [ ] Leasehold or Sub-leasehold: Individual apartments and the common elements, which include the underlying land will be leasehold.

Leases for the individual apartments and the underlying land usually require that at the end of the lease term, the lessee (apartment owner/tenant) deliver to the lessor (fee property owner) possession of the leased premises and all improvements, including improvements paid for by the lessee.

Exhibit \_\_\_\_\_ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: \_\_\_\_\_ Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable:    ☐ Monthly                      ☐ Quarterly  
                               ☐ Semi-Annually                  ☐ Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per: ☐ Month ☐ Year

For Sub-leaseholds:

- ☐ Buyer's sublease may be canceled if the master lease between the sublessor and fee owner is: ☐ Canceled ☐ Foreclosed
- ☐ As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is canceled or foreclosed.
- ☐ Individual Apartments in Fee Simple; Common Interest in the Underlying Land in Leasehold or Sub-leasehold:

Leases for the underlying land usually require that at the end of the lease term, the lessees (apartment owners/tenants) deliver to the lessor (fee property owner) their interest in the land and that they either (1) remove or dispose of the building(s) and other improvements at the lessee's expense; or (2) convey the building(s) and improvements to the lessor, often at a specified price.

Exhibit \_\_\_\_\_ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: Rent Renegotiation Date(s):

Lease Rent Payable:    ☐ Monthly                      ☐ Quarterly  
                               ☐ Semi-Annually                  ☐ Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per: ☐ Month ☐ Year

[ ] Other:

### **IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS**

The information contained in this report is a summary of the terms of the lease. For more detailed information, you should secure a copy of the lease documents and read them thoroughly.

If you have any legal questions about leasehold property, the lease documents or the terms of the lease and the consequences of becoming a lessee, you should seek the advice of an attorney.

There are currently no statutory provisions for the mandatory conversion of leasehold condominiums and there are no assurances that such measures will be enacted in the future.

In leasehold condominium projects, the buyer of an apartment will acquire the right to occupy and use the apartment for the time stated in the lease agreement. The buyer will not acquire outright or absolute fee simple ownership of the land. The land is owned by the lessor or the leased fee owner. The apartment owner or lessee must make lease rent payments and comply with the terms of the lease or be subject to the lessor's enforcement actions. The lease rent payments are usually fixed at specific amounts for fixed periods of time, and are then subject to renegotiation. Renegotiation may be based on a formula, by arbitration set in the lease agreement, by law or by agreement between the lessor and lessee. The renegotiated lease rents may increase significantly. At the end of the lease, the apartment owners may have to surrender the apartments, the improvements and the land back to the lessor without any compensation (surrender clause).

When leasehold property is sold, title is normally conveyed by means of an assignment of lease, the purpose of which is similar to that of a deed. The legal and practical effect is different because the assignment conveys only the rights and obligations created by the lease, not the property itself.

The developer of this condominium project may have entered into a master ground lease with the fee simple owner of the land in order to develop the project. The developer may have then entered into a sublease or a new lease of the land with the lessee (apartment owner). The developer may lease the improvements to the apartment owner by way of an apartment lease or sublease, or sell the improvements to the apartment owners by way of a condominium conveyance or apartment deed.

#### **B. Underlying Land:**

Address: Kahakulani Place Tax Map Key (TMK): (2) 3-9-045-012  
Kihei, Maui, Hawaii 96753

[X] Address [X] TMK is expected to change because Developer has submitted an  
application to the County of Maui for final subdivision approval

Land Area: 4.101 [ ] square feet [X] acre(s) Zoning: M-1

Fee Owner: KCCC, LLC  
Name  
99-880 Iwaena Street  
Address  
Aiea, Hawaii 96701

Lessor: n/a  
Name  
Address

C. **Buildings and Other Improvements:**

1. ☒ New Building(s)  
☐ Conversion of Existing Building(s)  
☐ Both New Building(s) and Conversion  

Buildings 1 and 2: One (1)
2. Number of Buildings: four (4) Floors Per Building: Buildings 3 and 4: Two (2)  
☐ Exhibit \_\_\_\_\_ contains further explanations.
3. **Principal Construction Material:**  
☒ Concrete      ☐ Hollow Tile      ☐ Wood  
☐ Other \_\_\_\_\_

4. **Uses Permitted by Zoning:**

	<u>No. of Apts.</u>	<u>Use Permitted By Zoning</u>	
<input type="checkbox"/> Residential	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Industrial	<u>73</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Agricultural	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Other	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?

☒ Yes      ☐ No

5. Special Use Restrictions:

The Declaration and Bylaws may contain restrictions on the use and occupancy of the apartments. Restrictions for this condominium project include but are not limited to:

☐ Pets: \_\_\_\_\_

☐ Number of Occupants: \_\_\_\_\_

☒ Other: See Pages 11A and 11B attached hereto.

☐ There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 2 Stairways: 4 Trash Chutes: 0

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Net Other Area (sf)	(Identify)
(See Exhibit "A" attached hereto)					
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Total Number of Apartments: 73

**\* Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls.**

**Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.**

Boundaries of Each Apartment:

See Exhibit "B" attached hereto.

Permitted Alterations to Apartments:

Each unit owner shall have the right, at such unit owner's sole cost and expense but without the consent or joinder of any other unit owner, to alter, restore, demolish, renovate, improve, construct or reconstruct such owner's unit, to construct any additional improvements or to make structural alterations or additions to such owner's unit.

Apartments Designated for Owner-Occupants Only: n/a

Fifty percent (50%) of **residential** apartments must be so designated; developer has a right to substitute similar apartments for those apartments already designated. Developer must provide this information either in a published announcement or advertisement as required by section 514A-102, HRS; or include the information here in this public report and in the announcement (see attachment 11a). Developer has \_\_\_\_\_ elected to provide the information in a published announcement or advertisement.

A. The Units shall be occupied and used only for office, retail sales, warehousing, research, food processing, light industrial, light manufacturing, and wholesale distribution purposes, as permitted by the State of Hawaii statutes and rules and regulations and County of Maui's ordinances, and subject to such limitations as may be contained herein and in the Bylaws and Project Rules and Regulations which may be adopted from time to time governing the use of the Units.

Specifically prohibited uses include the following:

1. any use which creates an unsafe, obnoxious or offensive impact on other occupants within the project by reason of the emission of odor, dust, fumes, smoke, noise, noxious substances, vibration, refuse matter, water-carried waste or similar irritants unless appropriate mitigating measures to control such emissions are in full operation and effect, as approved by the Board;
2. dumping, storage, disposal, incineration, treatment, processing or reduction of the following: garbage, dead animals, hazardous or toxic substances, or refuse;
3. bars, nightclubs, taverns, and business engaged in the sale of obscene or pornographic materials or in the provision of entertainment featuring topless or nude performers;
4. explosives and firearms;
5. any use that is subject to the sewer surcharge under Section 14.31.030 of the Maui County Code; provided, however, that such use will be permitted if it is connected to its own separate County of Maui Department of Water Supply water meter;
6. residential use;
7. automobile body shops;
8. bath houses;
9. bed and breakfast homes;
10. dancehalls;
11. mortuaries or crematoriums;
12. sanitariums;
13. commercial recycling; and
14. restaurants.

Notwithstanding any provision to the contrary, no Unit owner shall offer, sell or transfer any time-sharing interest in any Unit in the Project. As used herein, the term "**time-sharing interest**" shall be deemed to include any interest in a Unit established on a fee, leasehold, right-to-use, license, partnership, association, membership, membership in club, reservation or any other basis for use during any specified limited time period (periodically recurring or in the form of a floating period with a right-to-use by notification) set forth by contract or agreement.

B. An owner of a Unit shall not cause or permit any Hazardous Materials to be generated, used, transported, stored or disposed of upon, in or about such Unit or the common elements except in a manner that complies with all applicable Hazardous Materials Laws.

7. Parking Stalls:

Total Parking Stalls: 200

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		TOTAL
	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	
Assigned (for each unit)	<u>106</u>		<u>0</u>				<u>106</u>
Guest	<u>77</u>		<u>17</u>				<u>94</u>
Unassigned							
Extra for Purchase							
Other: _____							
Total Covered & Open:	<u>183</u>		<u>17</u>				<u>200</u>

Each apartment will have the exclusive use of at least 1 parking stall(s).  
Buyers are encouraged to find out which stall(s) will be available for their use.

☐ Commercial parking garage permitted in condominium project.

☒ Exhibit "A" contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

☒ There are no recreational or common facilities.

☐ Swimming pool

☐ Storage Area

☐ Recreation Area

☐ Laundry Area

☐ Tennis Court

☐ Trash Chute/Enclosure(s)

☐ Other: \_\_\_\_\_

9. Compliance With Building Code and Municipal Regulations; Cost to Cure Violations

☒ There are no violations.

☐ Violations will not be cured.

☐ Violations and cost to cure are listed below: ☐ Violations will be cured by \_\_\_\_\_  
(Date)

10. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations (For conversions of residential apartments in existence for at least five years): n/a

11. Conformance to Present Zoning Code

a. ☒ No variances to zoning code have been granted.

☐ Variance(s) to zoning code was/were granted as follows:

b. Conforming/Non-Conforming Uses, Structures, Lot

In general, a non-conforming use, structure, or lot is a use, structure, or lot which was lawful at one time but which does not now conform to present zoning requirements.

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	<u>X</u>	<u>                    </u>	<u>                    </u>
Structures	<u>X</u>	<u>                    </u>	<u>                    </u>
Lot	<u>X</u>	<u>                    </u>	<u>                    </u>

If a variance has been granted or if uses, improvements or lot are either non-conforming or illegal, buyer should consult with county zoning authorities as to possible limitations which may apply.

Limitations may include restrictions on extending, enlarging, or continuing the non-conformity, and restrictions on altering and repairing structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.

The buyer may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure, or lot.

D. Common Elements, Limited Common Elements, Common Interest:

1. Common Elements: Common Elements are those parts of the condominium project other than the individual apartments. Although the common elements are owned jointly by all apartment owners, those portions of the common elements which are designated as limited common elements (see paragraph 2 below) may be used only by those apartments to which they are assigned. The common elements for this project, as described in the Declaration, are:

☒ described in Exhibit "C".

☐ as follows:



2. Limited Common Elements: Limited Common Elements are those common elements which are reserved for the exclusive use of the owners of certain apartments.

☐ There are no limited common elements in this project.

☒ The limited common elements and the apartments which use them, as described in the Declaration, are:

☒ described in Exhibit "D".

☐ as follows:

3. Common Interest: Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interest." It is used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by apartment owners. The common interests for the apartments in this project, as described in the Declaration, are:

☒ described in Exhibit "A".

☐ as follows:

- E. Encumbrances Against Title: An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of an apartment in the project.

Exhibit "E" describes the encumbrances against the title contained in the title report dated November 4, 2004 and issued by Title Guaranty of Hawaii, Inc.

Blanket Liens:

A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project that secures some type of monetary debt (such as a loan) or other obligation. A blanket lien is usually released on an apartment-by-apartment basis upon payment of specified sums so that individual apartments can be conveyed to buyers free and clear of the lien.

[ ] There are no blanket liens affecting title to the individual apartments.

[x] There are blanket liens which may affect title to the individual apartments.

Blanket liens (except for improvement district or utility assessments) must be released before the developer conveys the apartment to a buyer. The buyer's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the apartment to buyer.

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed <b>Prior to Conveyance</b></u>
---------------------	--

See Exhibit "F" attached hereto and made a part hereof.

F. Construction Warranties:

Warranties for individual apartments and the common elements, including the beginning and ending dates for each warranty, are as follows:

1. Building and Other Improvements: None

2. Appliances: None

G. **Status of Construction and Date of Completion or Estimated Date of Completion:**

Estimated date of completion is September of 2005.

H. **Project Phases:**

The developer [ ] has [x] has not reserved the right to add to, merge, or phase this condominium.

Summary of Developer's plans or right to perform for future development (such as additions, mergers or phasing):

#### IV. CONDOMINIUM MANAGEMENT

- A. **Management of the Common Elements:** The Association of Apartment Owners is responsible for the management of the common elements and the overall operation of the condominium project. The Association may be permitted, and in some cases may be required, to employ or retain a condominium managing agent to assist the Association in managing the condominium project.

Initial Condominium Managing Agent: When the developer or the developer's affiliate is the initial condominium managing agent, the management contract must have a term of one year or less and the parties must be able to terminate the contract on notice of 60 days or less.

The initial condominium managing agent for this project, named on page five (5) of this report, is:

☒ not affiliated with the Developer ☐ the Developer or Developer's affiliate  
☐ self-managed by the Association of Apartment Owners ☐ Other: \_\_\_\_\_

- B. **Estimate of Initial Maintenance Fees:**

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, a lien may be placed on your apartment and the apartment may be sold through a foreclosure proceeding.

Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided.

Exhibit "G" contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change).

- C. **Utility Charges for Apartments:**

Each apartment will be billed separately for utilities except for the following checked utilities which are included in the maintenance fees:

☐ None ☒ Electricity (☒ Common Elements only ☐ Common Elements & Apartments)  
☐ Gas (☐ Common Elements only ☐ Common Elements & Apartments)  
☒ Water ☒ Sewer ☐ Television Cable  
☒ Other water usage for landscaping purposes; refuse collection

## V. MISCELLANEOUS

### A. Sales Documents Filed With the Real Estate Commission:

Sales documents on file with the Real Estate Commission include but are not limited to:

- ☐ Notice to Owner Occupants
- ☒ Specimen Sales Contract  
Exhibit "H" contains a summary of the pertinent provisions of the sales contract.
- ☒ Escrow Agreement dated January 21, 2005  
Exhibit "I" contains a summary of the pertinent provisions of the escrow agreement.
- ☐ Other \_\_\_\_\_

### B. Buyer's Right to Cancel Sales Contract:

#### 1. Rights Under the Condominium Property Act (Chapter 514A, HRS):

Preliminary Report: Sales made by the developer are not binding on the prospective buyer. Sales made by the developer may be binding on the developer unless the developer clearly states in the sales contract that sales are not binding. A prospective buyer who cancels the sales contract is entitled to a refund of all moneys paid, less any escrow cancellation fee up to \$250.00.

Supplementary Report to a Preliminary Report: Same as for Preliminary Report.

Final Report or Supplementary Report to a Final Report: Sales made by the developer are binding if:

- A) The Developer delivers to the buyer a copy of:
  - 1) Either the Final Public Report **OR** the Supplementary Public Report which has superseded the Final Public Report for which an effective date has been issued by the Real Estate Commission; **AND**
  - 2) Any other public report issued by the developer prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;
- B) The buyer is given an opportunity to read the report(s); **AND**
- C) One of the following has occurred:
  - 1) The buyer has signed a receipt for the report(s) and waived the right to cancel; or
  - 2) Thirty (30) days have passed from the time the report(s) were delivered to the buyer; or
  - 3) The apartment is conveyed to the buyer within 30 days from the date the report(s) were delivered to the buyer.

Material Change: Binding contracts with the Developer may be rescinded by the buyer if:

- A) There is a material change in the project which directly, substantially, and adversely affects (1) the use or value of the buyer's apartment or its limited common elements; or (2) the amenities available for buyer's use; **AND**
- B) The buyer has not waived the right to rescind.

If the buyer rescinds a binding sales contract because there has been a material change, the buyer is entitled to a full and prompt refund of any moneys the buyer paid.

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public Reports issued by the developer which have been issued an effective date by the Hawaii Real Estate Commission.
  - B) Declaration of Condominium Property Regime, as amended.
  - C) Bylaws of the Association of Apartment Owners, as amended.
  - D) House Rules, if any.
  - E) Condominium Map, as amended.
  - F) Escrow Agreement.
  - G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
  - H) Other All documents listed in Exhibit "E" attached herein

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer or through the developer's sales agent, if any. The Condominium Property Regime law (Chapter 514A, HRS) and the Administrative Rules (Chapter 107) are available online. Please refer to the following sites:

Website to access official copy of laws: [www.capitol.hawaii.gov](http://www.capitol.hawaii.gov)

Website to access unofficial copy of laws: [www.hawaii.gov/dcca/hrs](http://www.hawaii.gov/dcca/hrs)

Website to access rules: [www.hawaii.gov/dcca/har](http://www.hawaii.gov/dcca/har)

This Public Report is a part of Registration No. 5551 filed with the Real Estate Commission on December 14, 2004.

Reproduction of Report. When reproduced, this report must be on:

☐ YELLOW paper stock

☐ WHITE paper stock

☒ PINK paper stock

C. **Additional Information Not Covered Above**

1. The Utility Disclosure for Kihei Commercial Plaza is attached hereto as Exhibit "J"
2. Units will all have office mail delivery.
3. Pacific Commercial Realty Corp., a Hawaii corporation, one of the brokers representing Developer, is an affiliate of Developer. Shares of Pacific Commercial Realty Corp., are owned by Valentine Peroff, Jr. or related entities. Valentine Peroff, Jr. is a principal in and the manager of Developer.
4. The land underlying the Kihei Commercial Plaza is subject to that certain Amendment and Restatement of Declaration of Protective Covenants, Conditions and Restrictions for Kihei Commercial Roadways Association (the "Roadway Declaration"). Kihei Commercial Plaza's share of the Share of Costs (as defined in the Roadway Declaration) payable to the Kihei Commercial Roadways Association shall be a common expense and included as part of each unit owner's monthly fees and the Association of Unit Owners of Kihei Commercial Plaza, acting through its officers and its Board of Directors, shall be the exclusive representative of all Kihei Commercial Plaza unit owners and shall have the right to cast all votes for the owner of the land underlying Kihei Commercial Plaza at all meetings of the Kihei Commercial Roadways Association.

- D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-1.6] (The developer is required to make this declaration for issuance of an effective date for a final public report.)
- E. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

KCCC, LLC

Printed Name of Developer

By: Valentine Peroff, Jr. June 23, 2005  
Duly Authorized Signatory Date

Valentine Peroff, Jr., Its Manager

Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Maui

Planning Department, County of Maui

***\*Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership (LLP) by the general partner; Limited Liability Company (LLC) by the manager or member; and for an individual by the individual.***



# Exhibit "A"

## Description of the Units

Unit Number	Approximate Net Area (sq. ft.)	Percentage Common Interest	Percentage Unit Building Share	Reserved Parking Stall
Building 1				
101	1,111	1.43%	4.70%	101, 102
102	1,080	1.38%	4.53%	104, 105
103	1,080	1.38%	4.53%	107, 108
104	1,080	1.38%	4.53%	109, 110
105	1,080	1.38%	4.53%	112, 113
106	1,080	1.38%	4.53%	114, 115
107	1,080	1.38%	4.53%	116, 117
108	1,080	1.38%	4.53%	119, 120
109	1,080	1.38%	4.53%	121, 122
110	1,080	1.38%	4.53%	123, 124
111	1,080	1.38%	4.53%	125, 126
112	1,111	1.43%	4.70%	129, 130
113	1,080	1.38%	4.53%	131, 132
114	1,080	1.38%	4.53%	133, 134
115	1,080	1.38%	4.53%	137, 138
116	1,080	1.38%	4.53%	139, 140
117	1,080	1.38%	4.53%	141, 142
118	1,080	1.38%	4.53%	143, 144
119	1,080	1.38%	4.53%	146, 147
120	1,080	1.38%	4.53%	145, 150
121	1,080	1.38%	4.53%	151, 152
122	1,080	1.38%	4.53%	153, 154
Building 2				
201	1,083	1.40%	9.54%	204, 205
202	1,017	1.30%	8.95%	207, 208
203	1,017	1.30%	8.95%	210, 211
204	1,017	1.30%	8.95%	212, 213
205	1,017	1.30%	8.95%	215, 216
206	1,017	1.30%	8.95%	218, 219
207	1,017	1.30%	8.95%	220, 221
208	1,017	1.30%	8.95%	223, 224
209	1,017	1.30%	8.95%	225, 226
210	1,017	1.30%	8.95%	228, 229
211	1,125	1.46%	9.91%	231, 232

Building 3				
301	1,133	1.46%	5.29%	320
302	1,036	1.33%	4.84%	318
303	1,036	1.33%	4.84%	316
304	1,036	1.33%	4.84%	314
305	1,048	1.34%	4.90%	312
306	1,293	1.67%	6.06%	345
307	1,036	1.33%	4.84%	347
308	1,036	1.33%	4.84%	349
309	1,036	1.33%	4.84%	331
310	1,133	1.46%	5.29%	329
311	1,133	1.46%	5.29%	319
312	1,036	1.33%	4.84%	317
313	1,036	1.33%	4.84%	315
314	1,036	1.33%	4.84%	313
315	1,048	1.34%	4.90%	311
316	1,048	1.34%	4.90%	344
317	1,036	1.33%	4.84%	346
318	1,036	1.33%	4.84%	348
319	1,036	1.33%	4.84%	330
320	1,133	1.46%	5.29%	328
Building 4				
401	1,048	1.34%	4.90%	424
402	1,036	1.33%	4.84%	422
403	1,036	1.33%	4.84%	420
404	1,036	1.33%	4.84%	418
405	1,133	1.46%	5.29%	416
406	1,133	1.46%	5.29%	412
407	1,036	1.33%	4.84%	441
408	1,036	1.33%	4.84%	439
409	1,036	1.33%	4.84%	437
410	1,293	1.67%	6.06%	343
411	1,048	1.34%	4.90%	423
412	1,036	1.33%	4.84%	421
413	1,036	1.33%	4.84%	419
414	1,036	1.33%	4.84%	417
415	1,133	1.46%	5.29%	415
416	1,133	1.46%	5.29%	411
417	1,036	1.33%	4.84%	442
418	1,036	1.33%	4.84%	440
419	1,036	1.33%	4.84%	438
420	1,048	1.34%	4.90%	436

Visitor Parking Stalls for each Building are listed as follows:

<b>Building 1</b>	<b>Building 2</b>	<b>Building 3</b>	<b>Building 4</b>
103	201	301	401
106	202H	302	402H
111H	203H	303	403
118	206	304	404
127	209	305	405
128	214	306	406
135	217	307	407
136	222	308	408
148H	227	309H	409
149H	230	310	410
155	233	321	413
156		322	414
157		323	425
158		324	426
159		325	427
160		326	428
161		327	429H
		332	430H
		333	431
		334	432
		335	433
		336H	434
		337H	435
		338	443C
		339	444C
		340	445C
		341	446C
		342	447C
		350C	448C
		351C	449C
		352C	450C
		353C	
		354C	
		355C	
		356C	

H = Handicapped Accessible Stall

C = Compact Stall

## **Exhibit "B"**

### **Boundaries of Each Unit**

The respective Units shall not be deemed to include the exterior surfaces of the perimeter or party walls, the interior load-bearing walls, the exterior surfaces of all exterior walls, the exterior surfaces of the floors, ceilings and roofs for each Unit, or any pipes, wires, conduits or other utility lines running through such Unit which are utilized for or serve more than one (1) Unit, the same being deemed common elements as provided herein.

Subject to the foregoing, each Unit shall be deemed to include the following: all of the walls and partitions which are not load bearing within its perimeter or party walls; the inner surfaces of all walls, floors, ceilings and roofs; the doors, door frames, and louvers above such door frames, if any, windows, window frames of each such Unit, skylights installed in the ceiling of each such Unit, if any; and all fixtures in each such Unit.

## **Exhibit "C"**

### **Common Elements**

1. The land described in Exhibit "**K**".
2. All foundations, columns, girders, beams, floor slabs, supports, perimeter and load-bearing walls (except for the inner surfaces within each Unit ), roofs, walkways, stairways, entrances and exits of the buildings.
3. All yards, courtyards, grounds, fences, planters, landscaping, refuse and like facilities.
4. All walkways, driveways, parking area entryways and exitways, and all parking stalls, as designated on the Condominium Map.
5. All central and appurtenant installations for services such as power, lights, telephone, gas, hot and cold water lines, television lines, sewage disposal and other utilities (including all pipes, ducts, wires, cables and conduits used in connection therewith, whether located in common areas or in the Units), and all tanks, pumps, motors, fans, ducts, meters, sub-meters, check meters and other apparatus and installations existing for, or in the buildings for common use or for measuring the consumption of utilities.
6. Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, and normally in common use and which are not part of any Unit.

## **Exhibit "D"**

### **Limited Common Elements**

1. Limited Common Elements appurtenant only to Units in Building 1:

The fire sprinklers, hose bibs, gutters, drain downspouts, electrical room, air conditioning compressors, condensers and fan coils units at, on or within Building 1 shall be appurtenant to the Units within Building 1.

2. Limited Common Elements appurtenant only to Units in Building 2:

(i) The hose bibs, gutters, drain downspouts and electrical room at, on or within Building 2 shall be appurtenant to the Units within Building 2.

(ii) The yard area located in the rear of each Unit in Building 2 shall be appurtenant to and for the exclusive use of each such Unit.

(iii) The fences located in the rear yard areas of the Units in Building 2 shall be appurtenant to the Units in Building 2, and the cost of repair, maintenance and replacement of such fences shall be allocated among such Units in Building 2, in proportion to their Unit Building Interest (as defined below).

3. Limited Common Elements appurtenant only to Units in Building 3:

(i) The fire sprinklers, hose bibs, gutters, drain downspouts, electrical room, air conditioning compressors, condensers and fan coils units at, on or within Building 3 shall be appurtenant to the Units within Building 3.

(ii) The stairways and elevators located in Building 3 shall be appurtenant to and for the exclusive use of the Units within Building 3, and the cost of repair, maintenance and replacement of such stairways and elevators shall be allocated among such Units in Building 3, in proportion to their Unit Building Interest.

(iii) The electrical room located within Building 3 shall be appurtenant to and for the exclusive use of the Units within Building 3.

4. Limited Common Elements appurtenant only to Units in Building 4:

(i) The fire sprinklers, hose bibs, gutters, drain downspouts, electrical room, air conditioning compressors, condensers and fan coils units at, on or within Building 4 shall be appurtenant to the Units within Building 4.

(ii) The stairways and elevators located in Building 4 shall be appurtenant to and for the exclusive use of the Units within Building 4, and the cost of repair, maintenance and replacement of such stairways and elevators shall be allocated among such Units in Building 4, in proportion to their Unit Building Interest.

(iii) The electrical room located within Building 4 shall be appurtenant to and for the exclusive use of the Units within Building 4.

5. Parking Stalls. The parking stall listed in Exhibit "A" attached hereto and designated for each Unit shall be appurtenant to and for the exclusive use of each such Unit, except for the parking stalls designated in Exhibit "A" as visitor parking stalls.

All costs of every kind pertaining to each limited common element, including but not limited to, costs of maintenance, repair, replacements, additions and improvements, shall be charged to and payable by the owners of the Units to which said limited common elements are appurtenant, in accordance with the method of allocation set forth in Part I of Exhibit "C" attached to the Declaration.

## **Exhibit "E"**

### **Encumbrances Against Title**

1. INSTRUMENT : SECTION 14.12.080 AGREEMENT FOR CENTRAL MAUI AREAS  
  
DATED : May 5, 1987  
RECORDED : Liber 20719 Page 69  
PARTIES : TONY HARUYOSHI HASHIMOTO and HILDA HASHIMOTO, husband and wife, EVELYN HILDA HASHIMOTO, wife of Frank Lau, HEDY NAOMI KANEOKA, wife of Kelvin Muneyoshi Kaneoka, GRACE TOMIKO TSUTAHARA, wife of Melvyn Takao Tsutahara, SUSAN HISAYE HASHIMOTO-SHINOZUKA, wife of Keith Shinozuka, and HARRY HITOSHI HASHIMOTO, husband of Valerie Hashimoto, and DEPARTMENT OF WATER SUPPLY
  
2. INSTRUMENT : SUBDIVISION (THREE LOTS OR LESS) AGREEMENT  
  
DATED : July 13, 1987  
RECORDED : Liber 20904 Page 160  
PARTIES : TONY HARUYOSHI HASHIMOTO and HILDA HASHIMOTO (fka Hildegard Z. Hashimoto), husband and wife, EVELYN H. HASHIMOTO, wife of Frank Lau, HEDY NAOMI KANEOKA, wife of Kelvin Muneyoshi Kaneoka, GRACE T. TSUTAHARA (fka Grace T. Hashimoto), wife of Melvyn Takao Tsutahara, SUSAN H. HASHIMOTO-SHINOZUKA (fka Susan H. Hashimoto), wife of Keith Shinozuka, HARRY H. HASHIMOTO, husband of Valerie Hashimoto, TONY H. HASHIMOTO, Trustee under that certain unrecorded Tony H. Hashimoto Revocable Living Trust Agreement dated August 9, 1975, and HILDA HASHIMOTO, Trustee under that certain unrecorded Hilda Hashimoto Revocable Living Trust Agreement dated August 9, 1975, and COUNTY OF MAUI
  
3. INSTRUMENT : SUBDIVISION AGREEMENT (LARGE LOTS)  
  
DATED : July 13, 1987  
RECORDED : Liber 20904 Page 171  
PARTIES : TONY HARUYOSHI HASHIMOTO and HILDA HASHIMOTO (fka Hildegard Z. Hashimoto), husband and wife, EVELYN H. HASHIMOTO, wife of Frank Lau, HEDY NAOMI KANEOKA, wife of Kelvin Muneyoshi Kaneoka, GRACE T. TSUTAHARA



(fka Grace T. Hashimoto), wife of Melvyn Takao Tsutahara, SUSAN H. HASHIMOTO-SHINOZUKA (fka Susan H. Hashimoto), wife of Keith Shinozuka, HARRY H. HASHIMOTO, husband of Valerie Hashimoto, TONY H. HASHIMOTO, Trustee under that certain unrecorded Tony H. Hashimoto Revocable Living Trust Agreement dated August 9, 1975, and HILDA HASHIMOTO, Trustee under that certain unrecorded Hilda Hashimoto Revocable Living Trust Agreement dated August 9, 1975, and COUNTY OF MAUI

4. INSTRUMENT : SECTION VI(c) AGREEMENT FOR CENTRAL MAUI AREAS

DATED : July 6, 1989  
RECORDED : Liber 23463 Page 94  
PARTIES : KCOM CORPORATION, a Hawaii corporation, and  
DEPARTMENT OF WATER SUPPLY of the County of Maui

Said above Agreement was amended by instruments dated March 27, 1990, recorded as Document No. 90-057153, and dated October 16, 1990, recorded as Document No. 90-164419.

5. Conditions contained in the following: NOTICES TO ALL OWNERS/DEVELOPER/AUTHORIZED AGENTS, re: Kihei Wastewater Treatment Capacity (a) dated July 7, 1989, recorded in Liber 23514 at Page 586; (b) dated July 7, 1989, recorded in Liber 23514 at Page 588; (c) dated July 7, 1989, recorded in Liber 23514 at Page 590; (d) dated November 17, 1989, recorded in Liber 24040 at Page 479; and (e) dated June 28, 1990, recorded as Document No. 90-110641.

6. DESIGNATION OF EASEMENT "1" (15 feet wide)

PURPOSE : utility  
SHOWN : on survey map prepared by Bruce R. Lee, Land Surveyor, with Newcomer-Lee Land Surveyors, Inc., dated June 6, 1996, last revised January 21, 1997, and described as follows:

All of that certain parcel of land, being Easement 1 (15-ft. wide for utility purposes) over, under and across Lot 1 in favor of Lot 2 of the Kihei Commercial Center Subdivision (the map thereof not being recorded), being a portion of Lot 9-B-1 of the Waiakoa Makai Homesteads, also being a portion of Land Patent Grant Number 11400 to Ernest K. Naeole, situated at Waiakoa, Kihei, (Kula), Island and County of Maui, State of Hawaii, and thus bounded and described as per survey of Bruce R. Lee, Land Surveyor, with Newcomer-Lee Land Surveyors, Inc., dated October 31, 1996:

Beginning at the northeast corner of this easement, on the southerly boundary of Ohukai Road, said point being 83 18' 30" 274.64 feet from the northeast corner of said Lot 1 of said Kihei

Commercial Center Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O KALI" being:

15,905.40 feet north  
21,107.61 feet west

and running by azimuths measured clockwise from true South:

1. 353 18' 30" 15.00 feet along the remainders of said Lot 1 of the Kihei Commercial Center Subdivision and said Grant 11400 to Ernest K. Naeole;
2. 83 18' 30" 55.98 feet along the same;

Thence along same on the arc of a curve to the right, concave southeasterly with a radius of 30.00 feet, the chord azimuth and distance being:

3. 233 18' 30" 30.00 feet to a point on the southerly boundary of Ohukai Road;
4. 263 18' 30" 30.00 feet along the southerly boundary of Ohukai Road to the point beginning and containing an area of 726 square feet, more or less.

7. GRANT

TO : MAUI ELECTRIC COMPANY, LIMITED and GTE  
HAWAIIAN TELEPHONE COMPANY INCORPORATED,  
now known as VERIZON HAWAII, INC.

DATED : February 6, 1998

RECORDED : Document No. 98-139018

GRANTING : a perpetual right and easement for utility purposes over, across,  
through and under said Easement "1"

8. DESIGNATION OF EASEMENT "2" (24 feet wide)

PURPOSE : parking

SHOWN : on survey map prepared by Bruce R. Lee, Land Surveyor, with  
Newcomer-Lee Land Surveyors, Inc., dated June 6, 1996, last  
revised January 21, 1997, and described as follows:

All of that certain parcel of land, being Easement 2 (24-ft. wide for parking purposes) over, under and across Lot 1 in favor of Lot 2 of the Kihei Commercial Center Subdivision (the map thereof not being recorded), being a portion of Lot 9-B-1 of the Waiakoa Makai Homesteads, also being a portion of Land Patent Grant Number 11400 to Ernest K. Naeole, situated at

Waiakoa, Kihei, (Kula), Island and County of Maui, State of Hawaii, and thus bounded and described as per survey of Bruce R. Lee, Land Surveyor, with Newcomer-Lee Land Surveyors, Inc., dated October 31, 1996:

Beginning at a 3/4-inch pipe at the southeast corner of this easement, on the westerly boundary of Lot 10 of the Waiakoa Makai Homesteads, said point being also the northeast corner of said Lot 2 of the Kihei Commercial Center Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O KALI" being:

15,419.28 feet north  
21,775.65 feet west

and running by azimuths measured clockwise from true South:

1. 86 46' 30" 355.27 feet along said Lot 2 of the Kihei Commercial Center Subdivision and along the remainder of said Grant 11400 to Ernest K. Naeole;
2. 176 46' 30" 24.00 feet along the remainders of said Lot 1 of the Kihei Commercial Center Subdivision and said Grant 11400 to Ernest K. Naeole;
3. 266 46' 30" 355.27 feet along same to a point on the westerly boundary of said Lot 10 of the Waiakoa Makai Homesteads;
4. 356 46' 30" 24.00 feet along said Lot 10 of the Waiakoa Makai Homesteads and along the remainder of said Grant 11400 to Ernest K. Naeole to the point beginning and containing an area of 8,526 square feet or 0.196 acre, more or less.
9. Electrical box located on the common boundary between Lot 1, now Lot 1-A, (southerly boundary) and Lot 2 (north boundary), as shown on Certification Map prepared by Bruce R. Lee, Land Surveyor, with Newcomer - Lee Land Surveyors, Inc., dated September 30, 1997.
10. EXISTING EASEMENT "C" for sewer purposes in favor of Lot 10 of the Waiakoa Makai Homesteads, as shown on survey map prepared by Bruce R. Lee, Land Surveyor, with Newcomer-Lee Land Surveyors, Inc., dated June 6, 1996, last revised January 21, 1997.
11. Conditions contained in the following: NOTICES TO ALL OWNERS/DEVELOPERS/AUTHORIZED AGENTS, re: Kihei Wastewater Treatment Capacity:

RECORDED AS DOCUMENT NO.	DATED	OWNER/DEVELOPER/TENANT
91-004282	December 3, 1990	DESIGN 579, INC.

91-004284	December 14, 1990	KCOM CORP.
91-011493	November 7, 1990	KIHEI WINE & SPIRITS
91-018395	January 28, 1991	LES GIDDENS
91-018396	January 28, 1991	KCOM CORP.
91-018397	January 28, 1991	KCOM CORP.
91-018398	January 30, 1991	PACIFIC RIM INTERIOR DESIGN
91-021631	January 15, 1991	MAUI ECONOMIC DEVELOPMENT BOARD, INC.
91-024310	January 23, 1991	POWERHOUSE, INC.
91-024315	December 31, 1990	ATTCO, INC.
91-024319	January 11, 1991	PARADISE COMPUTER PRODUCTS, LTD.
91-127059	June 27, 1991	SILK PLANTS HAWAII, INC.
91-144489	June 24, 1991	YOST ENTERPRISES, INC.

12. INSTRUMENT : SECTION VI (c) FOR CENTRAL MAUI AREAS AGREEMENT

DATED : March 21, 1991  
 RECORDED : Document No. 91-041775  
 PARTIES : KIHEI TRADE CENTER, a Hawaii General Partnership, and  
 DEPARTMENT OF WATER SUPPLY of the County of Maui

13. INSTRUMENT : DECLARATION

DATED : July 27, 1990  
 RECORDED : Document No. 91-096587

14. Conditions contained in the NOTICE re: Kihei Wastewater Treatment Capacity, dated March 24, 1992, recorded as Document No. 92-065726.

15. INSTRUMENT : DECLARATION OF EASEMENT AND COVENANTS, RESTRICTIONS AND RESERVATIONS RELATING THERETO

DATED : April 17, 1997  
 RECORDED : Document No. 97-051215

Said Declaration was amended and restated by AMENDED AND RESTATED DECLARATION OF EASEMENT AND COVENANTS, RESTRICTIONS AND RESERVATIONS RELATING THERETO dated September 5, 1997, recorded as Document No. 97-121272.

16. INSTRUMENT : DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR KIHEI COMMERCIAL ROADWAYS ASSOCIATION

DATED : May 20, 2003  
RECORDED : 2003-099707

Said Declaration was amended by AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS acknowledged November 21, 2003, recorded as Document No. 2003-259113, and further amended and restated by AMENDMENT AND RESTATEMENT OF DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS dated October 6, 2004, recorded as Document Nos. 2004-206538 through 2004-206542.

17. INSTRUMENT : DECLARATION OF CONDOMINIUM PROPERTY REGIME  
KIHEI COMMERCIAL PLAZA

DATED : \_\_\_\_\_, 2005  
RECORDED : 2005-\_\_\_\_\_

18. INSTRUMENT : BYLAWS OF THE ASSOCIATION OF UNIT OWNERS OF  
KIHEI COMMERCIAL PLAZA

DATED : \_\_\_\_\_, 2005  
RECORDED : 2005-\_\_\_\_\_

## **Exhibit "F"**

### **Blanket Liens**

#### **Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance:**

Present liens will be released and satisfied prior to conveyance of unit to Buyer. If said liens are foreclosed prior to conveyance to Buyer, all of Buyer's deposits will be refunded immediately by escrow.

#### **Type of Liens:**

##### **1. MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT**

MORTGAGOR : KCOM CORP, a Hawaii corporation, and VALENTINE PEROFF, JR., husband of Barbara Joanna Peroff, Trustee of the Valentine Peroff, Jr. Revocable Living Trust created by unrecorded Trust Agreement dated July 7, 1989

MORTGAGEE : CENTRAL PACIFIC BANK, a Hawaii corporation

DATED : December 14, 2001

RECORDED : Document No. 2001-201776

AMOUNT : \$8,715,000.00 - covers the land described herein, besides other lands

2. ASSIGNMENT OF LESSOR'S INTEREST IN LEASES AND RENTS dated December 14, 2001, filed as Land Court Document No. 2763843, recorded as Document No. 2001-201777, by and between KCOM CORP., a Hawaii corporation, and VALENTINE PEROFF, JR., husband of Barbara Joanna Peroff, Trustee of the Valentine Peroff, Jr. Revocable Living Trust created by unrecorded Trust Agreement dated July 7, 1989, "Assignor", and CENTRAL PACIFIC BANK, a Hawaii corporation, "Assignee", assigning the entire interest of the Assignor in and to any and all tenant leases and all of the rents, income and profits arising from the leases and renewals of the premises described therein, besides other lands, to secure the repayment of that certain Promissory Notes in the amounts of \$3,192,000.00 and \$5,523,000.00.

##### **3. FINANCING STATEMENT**

DEBTOR : KCOM CORP. and VALENTINE PEROFF, JR.

SECURED

PARTY : CENTRAL PACIFIC BANK

RECORDED : Document No. 2001-201784

RECORDED ON: December 21, 2001

AMENDMENT recorded as Document No. 2004-005739 on January 12, 2004.

AMENDMENT recorded as Document No. 2004-136203 on July 6, 2004.

AMENDMENT recorded as Document No. 2004-141326 on July 13, 2004.

AMENDMENT recorded as Document No. 2004-163931 on August 11, 2004.

AMENDMENT recorded as Document No. 2004-219121 on October 28, 2004.

**Exhibit "G"**

**Disclosure Abstract**

KIHEI COMMERCIAL PLAZA

REGISTRATION NO. 5551  
DISCLOSURE ABSTRACT AS OF JUNE 23, 2005

1. Name and Address of Project (the "Project"):

KIHEI COMMERCIAL PLAZA  
Kahakulani Place\*  
Kihei, Maui, Hawaii 96753

\*Street numbers to be provided upon final subdivision approval by the County of Maui.

2. Name and Address of Developer (the "Developer"):

KCCC, LLC  
99-880 Iwaena Street  
Aiea, Hawaii 96701

3. Name and Address of Managing Agent of Project (the "Managing Agent"):

Commercial Properties of Maui Management, Inc.  
1962B Wells Street  
Wailuku, Hawaii 96793

4. Name and Address of Brokers:

Pacific Commercial Realty Corp.  
600 Kapiolani Boulevard, Suite 200  
Honolulu, HI 96813  
(808) 532-1925

Prudential Commercial Services Iwado Realty  
296-A Alamaha Street  
Kahului, Maui, Hawaii 96732  
(808) 877-9000

Commercial Properties of Maui, LLC  
1955 Main Street, Suite 400  
Wailuku, Hawaii 96793  
(808) 244-2200



5. Maintenance Fees: The following documents are attached hereto:

Exhibit "A": Estimated Monthly and Annual Maintenance Fees

Exhibit "B": Estimated Maintenance Fee Disbursements

The Managing Agent has certified that these exhibits have been prepared based on generally accepted accounting principles. Note, however, that the Estimated Monthly and Annual Maintenance Fees do not reflect the revenues, if any, derived from the Project. In addition, the Developer advises all purchasers that the maintenance fees of a condominium project are difficult to estimate prior to actual operation of the Project. Even if maintenance fees have been accurately estimated, such fees will tend to increase in an inflationary economy and as the improvements age. The estimated maintenance fees are based on the latest information available to the Developer and the Managing Agent and are subject to revision based on actual costs for items enumerated. Maintenance fees can vary depending on services desired by unit owners. Each buyer should carefully review the attached exhibits.

6. Warranties.

THE DEVELOPER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE UNIT, COMMON ELEMENTS, OR OTHER PRODUCTS, OR ANYTHING INSTALLED IN OR UPON THE PREMISES OR USED IN CONNECTION WITH THE PROJECT IN ANY MANNER, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, HABITABILITY, WORKMANLIKE CONSTRUCTION OR FITNESS FOR A PARTICULAR PURPOSE OR USE.

The closing of the sale of the Unit shall constitute the assignment by the Developer to a purchaser of any and all warranties given the Developer by the contractor for the Project and by any subcontractors or materialmen, including the contractor's guarantee of materials and workmanship against faulty or deficient materials and installation for a period of one (1) year after substantial completion of the Unit and the benefit of such warranties shall accrue to the purchaser on closing without further instruments or documents. The Developer agrees to cooperate with the purchaser during the effective period of any such warranties in asserting any claims based on such warranties and shall comply with all applicable laws requiring notice of the expiration of such warranties.

7. Use of Units. The Project consists of seventy-three (73) commercial units (each a "Unit", and collectively, the "Units"). Units may be used only for office, retail sales, warehousing, research, food processing, light industrial, light manufacturing, and wholesale distribution purposes, as permitted by the State of Hawaii statutes and rules and regulations and County of Maui's ordinances, and subject to such limitations as may be contained (i) the Declaration of Condominium Property Regime of Kihei Commercial Plaza, (ii) the Bylaws of the Association of Unit Owners of Kihei Commercial Plaza, (iii) the Deed for the individual Unit, (iv) the Kihei Commercial Plaza Deposit Receipt and Sales Contract for the individual Unit, (v) the Kihei Commercial Plaza Rules and Regulations, and (vi) the Amendment and Restatement of Declaration of Protective Covenants, Conditions and Restrictions for Kihei

Commercial Roadways Association. Copies of the foregoing documents are on file with the Real Estate Commission of the State of Hawaii. Specifically prohibited uses include the following:

- a. any use which creates an unsafe, obnoxious or offensive impact on other occupants within the project by reason of the emission of odor, dust, fumes, smoke, noise, noxious substances, vibration, refuse matter, water-carried waste or similar irritants unless appropriate mitigating measures to control such emissions are in full operation and effect, as approved by the Board;
- b. dumping, storage, disposal, incineration, treatment, processing or reduction of the following: garbage, dead animals, hazardous or toxic substances, or refuse;
- c. bars, nightclubs, taverns, and business engaged in the sale of obscene or pornographic materials or in the provision of entertainment featuring topless or nude performers;
- d. explosives and firearms;
- e. any use that is subject to the sewer surcharge under Section 14.31.030 of the Maui County Code; provided, however, that such use will be permitted if it is connected to its own separate County of Maui Department of Water Supply water meter;
- f. residential use;
- g. automobile body shops;
- h. bath houses;
- i. bed and breakfast homes;
- j. dancehalls;
- k. mortuaries or crematoriums;
- l. sanitariums;
- m. commercial recycling; and
- n. restaurants.

Notwithstanding any provision to the contrary, no Unit owner shall offer, sell or transfer any time-sharing interest in any Unit in the Project. As used herein, the term "**time-sharing interest**" shall be deemed to include any interest in a Unit established on a fee, leasehold, right-to-use, license, partnership, association, membership, membership in club,

reservation or any other basis for use during any specified limited time period (periodically recurring or in the form of a floating period with a right-to-use by notification) set forth by contract or agreement.

8. Extent of Commercial Development. The Project consists entirely of units intended for commercial/office use only.

**END OF DISCLOSURE ABSTRACT**

**prepared on a cash basis**

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**INCOME:**

Common Expense Assessment

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
TOTAL INCOME																																																																																																			

**COMMON EXPENSES:**

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	07-2009	08-2009	09-2009	10-2009	11-2009	12-2009	01-2010	02-2010	03-2010	04-2010	05-2010	06-2010	07-2010	08-2010	09-2010	10-2010	11-2010	12-2010	01-2011	02-2011	03-2011	04-2011	05-2011	06-2011	07-2011	08-2011	09-2011	10-2011	11-2011	12-2011	01-2012	02-2012	03-2012	04-2012	05-2012	06-2012	07-2012	08-2012	09-2012	10-2012	11-2012	12-2012	01-2013	02-2013	03-2013	04-2013	05-2013	06-2013	07-2013	08-2013	09-2013	10-2013	11-2013	12-2013	01-2014	02-2014	03-2014	04-2014	05-2014	06-2014	07-2014	08-2014	09-2014	10-2014	11-2014	12-2014	01-2015	02-2015	03-2015	04-2015	05-2015	06-2015	07-2015	08-2015	09-2015	10-2015	11-2015	12-2015	01-2016	02-2016	03-2016	04-2016	05-2016	06-2016	07-2016	08-2016	09-2016	10-2016	11-2016	12-2016	01-2017	02-2017	03-2017	04-2017	05-2017	06-2017	07-2017	08-2017	09-2017	10-2017	11-2017	12-2017	01-2018	02-2018	03-2018	04-2018	05-2018	06-2018	07-2018	08-2018	09-2018	10-2018	11-2018	12-2018	01-2019	02-2019	03-2019	04-2019	05-2019	06-2019	07-2019	08-2019	09-2019	10-2019	11-2019	12-2019	01-2020	02-2020	03-2020	04-2020	05-2020	06-2020	07-2020	08-2020	09-2020	10-2020	11-2020	12-2020	01-2021	02-2021	03-2021	04-2021	05-2021	06-2021	07-2021	08-2021	09-2021	10-2021	11-2021	12-2021	01-2022	02-2022	03-2022	04-2022	05-2022	06-2022	07-2022	08-2022	09-2022	10-2022	11-2022	12-2022	01-2023	02-2023	03-2023	04-2023	05-2023	06-2023	07-2023	08-2023	09-2023	10-2023	11-2023	12-2023	01-2024	02-2024	03-2024	04-2024	05-2024	06-2024	07-2024	08-2024	09-2024	10-2024	11-2024	12-2024	01-2025	02-2025	03-2025	04-2025	05-2025	06-2025	07-2025	08-2025	09-2025	10-2025	11-2025	12-2025	01-2026	02-2026	03-2026	04-2026	05-2026	06-2026	07-2026	08-2026	09-2026	10-2026	11-2026	12-2026	01-2027	02-2027	03-2027	04-2027	05-2027	06-2027	07-2027	08-2027	09-2027	10-2027	11-2027	12-2027	01-2028	02-2028	03-2028	04-2028	05-2028	06-2028	07-2028	08-2028	09-2028	10-2028	11-2028	12-2028	01-2029	02-2029	03-2029	04-2029	05-2029	06-2029	07-2029	08-2029	09-2029	10-2029	11-2029	12-2029	01-2030	02-2030	03-2030	04-2030	05-2030	06-2030	07-2030	08-2030	09-2030	10-2030	11-2030	12-2030	01-2031	02-2031	03-2031	04-2031	05-2031	06-2031	07-2031	08-2031	09-2031	10-2031	11-2031	12-2031	01-2032	02-2032	03-2032	04-2032	05-2032	06-2032	07-2032	08-2032	09-2032	10-2032	11-2032	12-2032	01-2033	02-2033	03-2033	04-2033	05-2033	06-2033	07-2033	08-2033	09-2033	10-2033	11-2033	12-2033	01-2034	02-2034	03-2034	04-2034	05-2034	06-2034	07-2034	08-2034	09-2034	10-2034	11-2034	12-2034	01-2035	02-2035	03-2035	04-2035	05-2035	06-2035	07-2035	08-2035	09-2035	10-2035	11-2035	12-2035	01-2036	02-2036	03-2036	04-2036	05-2036	06-2036	07-2036	08-2036	09-2036	10-2036	11-2036	12-2036	01-2037	02-2037	03-2037	04-2037	05-2037	06-2037	07-2037	08-2037	09-2037	10-2037
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Account	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397</
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DATE	DESCRIPTION	AMOUNT	BALANCE
1/1/20	OPENING BALANCE	10,000.00	10,000.00
1/15/20	PAYROLL	1,000.00	9,000.00
1/31/20	RENT	500.00	8,500.00
2/15/20	SALES	2,000.00	10,500.00
2/28/20	UTILITIES	300.00	10,200.00
3/15/20	PAYROLL	1,000.00	9,200.00
3/31/20	RENT	500.00	8,700.00
4/15/20	SALES	2,000.00	10,700.00
4/30/20	UTILITIES	300.00	10,400.00
5/15/20	PAYROLL	1,000.00	9,400.00
5/31/20	RENT	500.00	8,900.00
6/15/20	SALES	2,000.00	10,900.00
6/30/20	UTILITIES	300.00	10,600.00
7/15/20	PAYROLL	1,000.00	9,600.00
7/31/20	RENT	500.00	9,100.00
8/15/20	SALES	2,000.00	11,100.00
8/31/20	UTILITIES	300.00	10,800.00
9/15/20	PAYROLL	1,000.00	9,800.00
9/30/20	RENT	500.00	9,300.00
10/15/20	SALES	2,000.00	11,300.00
10/31/20	UTILITIES	300.00	11,000.00
11/15/20	PAYROLL	1,000.00	10,000.00
11/30/20	RENT	500.00	9,500.00
12/15/20	SALES	2,000.00	11,500.00
12/31/20	UTILITIES	300.00	11,200.00
TOTAL	MONTHLY EXPENSES	11,200.00	11,200.00

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UNITED COMMON EXPENSES

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Account	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998	1997	1996	1995	1994	1993	1992	1991	1990	1989	1988	1987	1986	1985	1984	1983	1982	1981	1980	1979	1978	1977	1976	1975	1974	1973	1972	1971	1970	1969	1968	1967	1966	1965	1964	1963	1962	1961	1960	1959	1958	1957	1956	1955	1954	1953	1952	1951	1950	1949	1948	1947	1946	1945	1944	1943	1942	1941	1940	1939	1938	1937	1936	1935	1934	1933	1932	1931	1930	1929	1928	1927	1926	1925	1924	1923	1922	1921	1920	1919	1918	1917	1916	1915	1914	1913	1912	1911	1910	1909	1908	1907	1906	1905	1904	1903	1902	1901	1900	1899	1898	1897	1896	1895	1894	1893	1892	1891	1890	1889	1888	1887	1886	1885	1884	1883	1882	1881	1880	1879	1878	1877	1876	1875	1874	1873	1872	1871	1870	1869	1868	1867	1866	1865	1864	1863	1862	1861	1860	1859	1858	1857	1856	1855	1854	1853	1852	1851	1850	1849	1848	1847	1846	1845	1844	1843	1842	1841	1840	1839	1838	1837	1836	1835	1834	1833	1832	1831	1830	1829	1828	1827	1826	1825	1824	1823	1822	1821	1820	1819	1818	1817	1816	1815	1814	1813	1812	1811	1810	1809	1808	1807	1806	1805	1804	1803	1802	1801	1800	1799	1798	1797	1796	1795	1794	1793	1792	1791	1790	1789	1788	1787	1786	1785	1784	1783	1782	1781	1780	1779	1778	1777	1776	1775	1774	1773	1772	1771	1770	1769	1768	1767	1766	1765	1764	1763	1762	1761	1760	1759	1758	1757	1756	1755	1754	1753	1752	1751	1750	1749	1748	1747	1746	1745	1744	1743	1742	1741	1740	1739	1738	1737	1736	1735	1734	1733	1732	1731	1730	1729	1728	1727	1726	1725	1724	1723	1722	1721	1720	1719	1718	1717	1716	1715	1714	1713	1712	1711	1710	1709	1708	1707	1706	1705	1704	1703	1702	1701	1700	1699	1698	1697	1696	1695	1694	1693	1692	1691	1690	1689	1688	1687	1686	1685	1684	1683	1682	1681	1680	1679	1678	1677	1676	1675	1674	1673	1672	1671	1670	1669	1668	1667	1666	1665	1664	1663	1662	1661	1660	1659	1658	1657	1656	1655	1654	1653	1652	1651	1650	1649	1648	1647	1646	1645	1644	1643	1642	1641	1640	1639	1638	1637	1636	1635	1634	1633	1632	1631	1630	1629	1628	1627	1626	1625	1624	1623	1622	1621	1620	1619	1618	1617	1616	1615	1614	1613	1612</
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Kihei Commercial Plaza

Total Annual Common Fees

\$154,690.00

Limited Common Elements

Bldg 3 & 4

\$21,540.00

\$10,770.00 per bldg.

Building & Lot #	Owner	Square footage	Prorata Share	% of Limited Common	Annual Amount	Monthly Recovery	Annual Limited Common	Monthly Recovery	Total Payment
Building 1									
101		1111	1.43%	4.70%	\$2,212.07	\$184.34	\$0.00	\$0.00	\$184.34
102		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
103		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
104		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
105		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
106		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
107		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
108		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
109		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
110		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
111		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
112		1111	1.43%	4.70%	\$2,212.07	\$184.34	\$0.00	\$0.00	\$184.34
113		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
114		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
115		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
116		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
117		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
118		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
119		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
120		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
121		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
122		1080	1.38%	4.53%	\$2,134.72	\$177.89	\$0.00	\$0.00	\$177.89
Total Bldg 1		23822	30.46%	100.00%	\$47,118.57	\$3,926.55	\$0.00	\$0.00	\$3,926.55

**Building 2**

201	1083	1.40%	9.54%	\$2,165.66	\$180.47	\$0.00	\$180.47
202	1017	1.30%	8.95%	\$2,010.97	\$167.58	\$0.00	\$167.58
203	1017	1.30%	8.95%	\$2,010.97	\$167.58	\$0.00	\$167.58
204	1017	1.30%	8.95%	\$2,010.97	\$167.58	\$0.00	\$167.58
205	1017	1.30%	8.95%	\$2,010.97	\$167.58	\$0.00	\$167.58
206	1017	1.30%	8.95%	\$2,010.97	\$167.58	\$0.00	\$167.58
207	1017	1.30%	8.95%	\$2,010.97	\$167.58	\$0.00	\$167.58
208	1017	1.30%	8.95%	\$2,010.97	\$167.58	\$0.00	\$167.58
209	1017	1.30%	8.95%	\$2,010.97	\$167.58	\$0.00	\$167.58
210	1017	1.30%	8.95%	\$2,010.97	\$167.58	\$0.00	\$167.58
211	1125	1.46%	9.91%	\$2,258.47	\$188.21	\$0.00	\$188.21
Total Bldg. 2	11361	14.56%	100.00%	\$22,522.86	\$1,876.91	\$0.00	\$1,876.91

**Building 3**

301	1133	1.46%	5.29%	\$2,258.47	\$188.21	\$47.48	\$235.68
302	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$43.44	\$214.89
303	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$43.44	\$214.89
304	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$43.44	\$214.89
305	1048	1.34%	4.90%	\$2,072.85	\$172.74	\$43.98	\$216.71
306	1293	1.67%	6.06%	\$2,583.32	\$215.28	\$54.39	\$269.67
307	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$43.44	\$214.89
308	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$43.44	\$214.89
309	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$43.44	\$214.89
310	1133	1.46%	5.29%	\$2,258.47	\$188.21	\$47.48	\$235.68
311	1133	1.46%	5.29%	\$2,258.47	\$188.21	\$47.48	\$235.68
312	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$43.44	\$214.89
313	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$43.44	\$214.89
314	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$43.44	\$214.89
315	1048	1.34%	4.90%	\$2,072.85	\$172.74	\$43.98	\$216.71
316	1048	1.34%	4.90%	\$2,072.85	\$172.74	\$43.98	\$216.71
317	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$43.44	\$214.89
318	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$43.44	\$214.89
319	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$43.44	\$214.89
320	1133	1.46%	5.29%	\$2,258.47	\$188.21	\$47.48	\$235.68
Total Bldg. 3	21401	27.49%	100.00%	\$42,524.28	\$3,543.69	\$897.50	\$4,441.19

# **Building 4**

401	1048	1.34%	4.90%	\$2,072.85	\$172.74	\$527.73	\$43.98	\$216.71
402	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$521.27	\$43.44	\$214.89
403	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$521.27	\$43.44	\$214.89
404	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$521.27	\$43.44	\$214.89
405	1133	1.46%	5.29%	\$2,258.47	\$188.21	\$569.73	\$47.48	\$235.68
406	1133	1.46%	5.29%	\$2,258.47	\$188.21	\$569.73	\$47.48	\$235.68
407	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$521.27	\$43.44	\$214.89
408	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$521.27	\$43.44	\$214.89
409	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$521.27	\$43.44	\$214.89
410	1293	1.67%	6.06%	\$2,583.32	\$215.28	\$652.66	\$64.39	\$269.67
411	1048	1.34%	4.90%	\$2,072.85	\$172.74	\$527.73	\$43.98	\$216.71
412	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$521.27	\$43.44	\$214.89
413	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$521.27	\$43.44	\$214.89
414	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$521.27	\$43.44	\$214.89
415	1133	1.46%	5.29%	\$2,258.47	\$188.21	\$569.73	\$47.48	\$235.68
416	1133	1.46%	5.29%	\$2,258.47	\$188.21	\$569.73	\$47.48	\$235.68
417	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$521.27	\$43.44	\$214.89
418	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$521.27	\$43.44	\$214.89
419	1036	1.33%	4.84%	\$2,057.38	\$171.45	\$521.27	\$43.44	\$214.89
420	1048	1.34%	4.90%	\$2,072.85	\$172.74	\$527.73	\$43.98	\$216.71
<b>Total Bldg 4</b>	<b>21401</b>	<b>27.49%</b>	<b>100.00%</b>	<b>\$42,524.28</b>	<b>\$3,543.69</b>	<b>\$10,770.00</b>	<b>\$897.50</b>	<b>\$4,441.19</b>
<b>Total Bldg 1,2,3 &amp; 4</b>	<b>77985</b>	<b>100.00%</b>		<b>\$154,690.00</b>	<b>\$12,890.83</b>	<b>\$21,540.00</b>	<b>\$1,795.00</b>	<b>\$14,685.83</b>

# CERTIFICATION

Commercial Properties of Maui Management, Inc., a Hawaii corporation, the Managing Agent for the Kihei Commercial Plaza condominium project, hereby certifies that Exhibits "A" and "B" attached to the Disclosure Abstract dated as of June 23, 2005 were prepared in accordance with generally accepted accounting principles.

Commercial Properties of Maui Management, Inc.,  
a Hawaii corporation

By Mary Jane Kramer  
Name: Mary Jane Kramer  
Title: President

Dated: 6-29, 2005

Subscribed and sworn to before me  
this 29<sup>th</sup> day of June, 2005.

v.s.

Louise S. Pell  
Notary Public, State of Hawaii  
Print Name Louise S. Pell  
My commission expires: 7-27-2005



## **Exhibit "H"**

### **Summary of Deposit Receipt and Sales Contract**

The specimen Deposit Receipt and Sales Contract ("DRSC") contains, among others, the following terms and provisions (which may be modified or otherwise limited by provisions not summarized):

1. The Purchase Price of shall be paid in three (3) payments, the last of which shall be paid to the Escrow Agent, subject to other terms, prior to the Closing Date which date shall be a date specified by Seller in a written notice given to Buyer.
2. The Purchase Price does not include the Project start-up fee, any maintenance fees for the Unit, closing costs, prorations, estimated property taxes, and additional costs payable by Buyer under the DRSC.
3. Until (i) the Real Estate Commission of the State of Hawaii has issued an effective date for a Contingent Final Public Report (or if a Contingent Final Public Report is not issued, the Final Public Report) for the Project; (ii) Buyer has receipted for or is deemed to have receipted for a Contingent Final Public Report (or the Final Public Report); and (iii) Buyer has waived or is deemed to have waived Buyer's right to cancel under Hawaii Revised Statutes Section 514A-62, the DRSC does not constitute a binding sales contract and may be terminated by either Buyer or Seller by written notice of such termination, delivered to the other party.
4. Buyer has received a copy of the public report(s) for the Project; and Buyer acknowledges that Buyer has had a reasonable opportunity to read the Declaration, the Bylaws, the Rules and Regulations, the form of warranty deed, the Escrow Agreement and the Amendment and Restatement of Declaration of Protective Covenants, Conditions and Restrictions for Kihei Commercial Roadways Association (the "**Roadways Declaration**"), and to examine the Project plans; and Buyer accepts such documents and plans with such changes and modifications as the Project architect may deem necessary.
5. Within thirty (30) days after the date Seller accepts the DRSC, Buyer must submit to Seller evidence of Buyer's ability to pay the Purchase Price.
6. If Buyer will be utilizing mortgage financing to pay a portion of the Purchase Price, then Buyer shall, within ten (10) days after receiving notice of Seller's execution of the DRSC, apply for such loan to one (1) or more lending institutions of Buyer's choice, for loan eligibility and credit approval necessary therefor. Buyer shall, within thirty (30) days following the date of Seller's execution of the DRSC, provide Seller with evidence reasonably satisfactory to Seller of Buyer's prequalification for a loan in an amount, which together with Buyer's own funds, will be sufficient to enable Buyer to purchase the Unit. Seller shall have no obligation to arrange for Buyer's mortgage

financing. Buyer shall promptly sign and deliver all documents and diligently take all steps necessary to obtain such loan. An executed copy of any mortgage commitment obtained by Buyer shall be delivered to Seller and if, notwithstanding Buyer's good faith efforts, such a commitment is not received by Seller within thirty (30) days after application, or if, notwithstanding Buyer's good faith efforts, such commitment is subsequently withdrawn, then Seller may, at Seller's option, terminate the DRSC, and upon such termination, Seller shall cause Escrow Agent to refund to Buyer the amounts already deposited, together with interest accrued thereon, less any escrow cancellation fee and other costs actually incurred by Seller or Buyer's lending institution in processing the loan application. Obtaining a mortgage commitment shall be Buyer's responsibility, and Buyer shall not be relieved of Buyer's obligations hereunder if such commitment is subsequently canceled or withdrawn.

7. If Buyer will be paying the entire Purchase Price in cash, then Buyer shall, within ten (10) days after receiving notice of Seller's execution of the DRSC, submit to Seller a financial statement, certified by Buyer to be true and accurate, in form and content sufficient to disclose fully Buyer's financial circumstances as of such date, and any other form reasonably required by Seller. Seller shall have thirty (30) days after receipt of such financial statement either to accept said statement or rescind and terminate the DRSC at Seller's sole discretion and, upon such termination, Seller shall cause Escrow Agent to refund to Buyer any amounts already deposited, together with interest accrued thereon, and less the cost of any credit report, the escrow cancellation fee and other costs actually incurred in reviewing such financial statement.
8. All payments made by Buyer under the DRSC will be deposited with Escrow Agent under the terms of the Escrow Agreement.
9. Seller has reserved the right to make certain modifications to the Declaration, the Bylaws, the Rules and Regulations, the Condominium Map, the form of warranty deed, and other documents as may be required by law, any title insurance company, any institutional mortgagee, or any governmental agency, or as Seller otherwise deems appropriate.
10. Buyer waives, relinquishes, and subordinates the priority or superiority of any lien or any other legal or equitable interest arising under the DRSC in favor of the lien or charge on the Project or the security interests of Seller's lender ("Lender"), including but not limited to any lien, mortgage, or other charge securing a loan made to finance the costs of construction and other costs during such construction and any and all advances therefor, whether contractual or voluntary, until the final closing and delivery by Seller of a warranty deed to Buyer.
11. Buyer consents to Seller's assignment to Lender, as security, of Seller's interests in the DRSC and Buyer's deposits with Escrow. In the event Lender acquires Seller's interest in the DRSC pursuant to said assignment, Buyer will, at Lender's option, perform to, attorn to, and recognize Lender as the Seller under the DRSC.

12. The estimates of monthly maintenance changes and assessments for the Units set forth in the public reports for the Project are not intended to be and do not constitute any representation or warranty by Seller.
13. After Buyer has receipted for or is deemed to have receipted for a Contingent Final Public Report (or the Final Public Report), and Buyer has waived or is deemed to have waived Buyer's right to cancel under HRS Section 514A-62, Buyer may terminate the DRSC only if there is a material change in the Project which directly, substantially and adversely affects the use or value of (1) Buyer's Unit or appurtenant limited common elements, or (2) those amenities of the Project available for Buyer's use, Buyer shall have the right to rescind the sale made under this Agreement and to receive a prompt and full refund of any monies paid or deposited.
14. Seller may terminate the DRSC if (a) Buyer's initial deposit check is returned for insufficient funds or (b) Buyer (or any one (1) of them if Buyer is more than one (1) person) should die prior to closing, (c) Buyer fails to communicate accurately the status of Buyer's loan application, if applicable, or (d) Buyer makes any misrepresentation to Seller hereunder, **THEN**, in any such event, Seller reserves the right to instruct Escrow Agent to return Buyer's check or deposits, together with interest accrued thereon, and less the processing and cancellation fee imposed by Escrow Agent and any other actual expenses incurred by reason of Buyer's execution of this Agreement. Until Seller so elects to cancel this Agreement, this Agreement shall remain in full force and effect.
15. The DRSC is conditional and contingent and not binding upon Seller, unless and until Seller holds, under confirmed and binding sales contracts, commitments by qualified buyers to purchase not less than thirty-five (35) units in the Project. As used in the preceding sentence, "qualified buyer" shall mean a buyer of a unit in the Project who has entered into a sales contract with Seller substantially in the form of the DRSC, has submitted all necessary loan applications and other information required by Seller under such buyer's contract, has performed all other obligations to be performed under such buyer's contract, has qualified for all approvals required to be obtained under such buyer's contract, including, without limitation, any purchase money financing loan approval, and has either waived, or has allowed all applicable time periods to expire without exercising, all of such buyer's rights to rescind or cancel such buyer's contract. If Seller shall fail to obtain the above stated number of confirmed and binding sales contracts by qualified buyers prior to the expiration of one hundred eighty (180) days from the date on which the first buyer signs a sales contract for the purchase of a unit in the Project, Seller at Seller's option may, but shall not be obligated to, cancel the DRSC by written notice given to Buyer within seven (7) days after such period; and in the event of such cancellation, Seller shall return all deposits and other payments theretofore paid to Seller or Escrow Agent by Buyer, together with interest accrued thereon, if any.
16. If Buyer shall default in any payment when required, or fail to perform any other obligations required of Buyer under the DRSC, and shall fail to cure such default within

ten (10) days after receipt of written notice thereof from Seller, Seller may, at Seller's option, terminate the DRSC by written notice to Buyer. As a reasonable estimate of Seller's damages resulting from such default, the parties agree that the sums deposited by Buyer under the DRSC prior to such default, together with interest accrued thereon, shall belong to Seller as liquidated damages. At Seller's option, Seller may also pursue any other remedy at law or in equity for specific performance, damages or otherwise. All costs, including reasonable attorneys' fees, incurred by reason of default by Buyer shall be borne by Buyer.

17. Seller hereby discloses to Buyer that in addition to one (1) flush tank water closet and one (1) lavatory provided by Seller (which together amounts to four (4) water fixture units), six (6) additional water fixture units (the "Allotted Fixtures") are allotted to each unit in the Project. After closing and without further approval by Seller, Buyer, at Buyer's sole expense, may install additional water fixtures for which the amount of water fixture units in aggregate do not exceed the Allotted Fixtures. A list of common water fixture types and the amount of water fixture units associated with such water fixture is attached to the DRSC as Exhibit "E". Buyer acknowledges and agrees that if Buyer shall require water fixture units above and beyond the Allotted Fixtures, Buyer must submit to Seller or the Association, as the case might be, a written request for such additional water fixture units. Said request shall include the following: (a) amount of additional water fixture units requested; (b) description of the projected use for additional water fixture units; and (c) calculation by a certified engineer of Buyer's predicted water fixture unit requirements. Seller or the Association, as the case might be, shall, in its sole and absolute discretion, approve or disapprove of requests for more water fixture units. After the expiration of two (2) years from the date of recordation of the Declaration, the Board of Directors of the Association shall be responsible for the approval or disapproval of requests by a unit owner for additional water fixture units. Additionally, Buyer acknowledges and agrees that upon any approval of a request by Buyer for additional water fixture units, Buyer shall pay a non-refundable fee of TWO HUNDRED AND NO/100 DOLLARS (\$200.00) per approved additional water fixture unit to Seller or to the Association, as the case might be. Any approved request for additional water fixture units by Buyer shall require Buyer, at Buyer's sole cost and expense, to install a water sub-meter within the interior of the Buyer's Unit which shall be of the model type and size as required by either Seller or the Association, as the case might be. Any Buyer who installs a water sub-meter pursuant to the foregoing shall connect such sub-meter to the building's meter only upon the review and approval of the plans and specifications for the installation of said water sub-meter by Seller or the Association, as the case might be.
18. The Land is subject to the Roadways Declaration. Accordingly, the Land's share of the Share of Costs (as such term is defined in the Roadways Declaration) payable to the Kihei Commercial Roadways Association (the "**Roadways Association**") shall be a common expense and included as part of Buyer's monthly fees and that the Association, acting through its officers and its Board of Directors, shall be the exclusive representative of all unit owners and shall have the right to cast all votes for the owner of the Land at all meetings of the Roadways Association.

19. Buyer shall in no event take possession of or enter the Unit prior to the Closing Date and full compliance by Buyer with the terms of the DRSC. Violation of this provision shall be deemed a material breach of contract, and Buyer agrees that Seller shall have the right to remove Buyer from the premises by any lawful means.
20. Risk of loss to the Unit and percentage interest in the common elements shall be borne by Seller until the sooner of the Closing Date or the date Buyer takes possession, and thereafter, such risk of loss shall be borne by Buyer.
21. **No air conditioning system or fire sprinkler system shall be provided for Units in Building 2.**

Unless otherwise defined herein, all capitalized terms used herein shall have the same meanings give them under the DRSC.

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE DRSC. WHILE A BUYER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF BUYER'S RIGHTS AND OBLIGATIONS UNDER THE DRSC, BUYER MUST REFER TO THE DRSC TO DETERMINE BUYER'S ACTUAL RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE DRSC, THE DRSC WILL CONTROL.

## **Exhibit "I"**

### **Summary of Escrow Agreement**

The Condominium Escrow Agreement ("Escrow Agreement") dated January 21, 2005, made by and between Title Guaranty Escrow Services, Inc. ("Escrow Agent"), and KCCC, LLC ("Seller"), contains among other provisions the following (which may be modified or otherwise limited by provisions not summarized herein):

1. Sales Contracts Deposited in Escrow. As and when Seller enters into a sales contract with a purchaser for sale of a unit in the Kihei Commercial Plaza condominium project (the "Project"), Seller shall deliver an executed copy of said sales contract to Escrow Agent. Each sales contract shall contain the correct names and addresses of the purchasers, shall require that all payments to be made thereunder shall be made to Escrow Agent and shall be accompanied by the initial deposit required thereunder.

2. Receipt of Funds by Escrow. In accordance with written instructions from Seller that are acceptable to Escrow Agent, Escrow Agent shall deposit all funds so received, within a reasonable time of their receipt by Escrow Agent and in reasonably convenient sums, in a federally-insured, interest-bearing account at a bank, savings and loan association, or trust company authorized to do business in the State of Hawaii. Any interest earned on funds deposited in escrow shall accrue to the credit of the purchaser.

3. Conditions to be Met Prior to Disbursement of Funds in Escrow. No disbursements of funds held in escrow shall be made unless and until the following conditions have been fulfilled:

(a) the Real Estate Commission of the State of Hawaii shall have issued an effective date for a Final Report on the Project;

(b) the purchaser shall have been given a copy of the Final Public Report and shall have acknowledged receipt of the same or shall have been deemed to have acknowledged receipt of same and shall have waived or shall have been deemed to have waived the purchaser's right to cancel the sales contract; and

(c) Seller or Seller's attorney shall have delivered a written opinion to Escrow Agent that purchaser's sales contract has become effective; and that the requirements of Sections 514A-62 and 514A-63, Hawaii Revised Statutes ("HRS"), have been met.

4. Return of Purchaser's Funds and Documents. A purchaser shall be entitled to a return of such purchaser's funds and Escrow Agent shall pay such funds to such purchaser, together with any interest accrued, but less a cancellation fee commensurate with the work done by Escrow Agent prior to such cancellation, up to a maximum of \$250.00, to a purchaser if:

(a) Seller and purchaser shall have requested Escrow Agent in writing to return to purchaser the funds of purchaser held hereunder by Escrow;

(b) Seller shall have notified Escrow Agent of Seller's exercise of the option to cancel and rescind the sales contract pursuant to any right of cancellation or rescission provided therein or otherwise available to Seller;

(c) The purchaser shall have notified Escrow Agent of purchaser's exercise of purchaser's right to cancel the sales contract pursuant to Section 514A-62, HRS; or

(d) The purchaser shall have notified Escrow Agent of purchaser's exercise of purchaser's right to rescind the sales contract pursuant to Section 514A-64, HRS.

5. Unclaimed Funds. Escrow shall give each purchaser entitled to a return of funds notice thereof by registered, certified or regular mail, postage prepaid, addressed to such purchaser at the purchaser's address shown on the sales contract or any address later made known in writing to Escrow Agent by such purchaser. If such purchaser shall not have claimed such refund within sixty (60) days, Escrow Agent shall deposit such funds into a special account in a bank or other depository selected by Escrow Agent, in the name of Seller, as trustee for the benefit of such purchaser. After notifying the purchaser of all such facts at the purchaser's address as described above and delivering all partially executed conveyance documents to Seller, Escrow Agent shall thereupon be released from any further duties or liability with respect to such funds and such purchaser.

6. Closing. Except for the sales contract and any note and mortgage that is to be closed by the mortgagee thereof, Escrow Agent shall promptly and diligently arrange for and supervise the execution of all documents related to the Project and shall promptly and diligently close the transactions and perform such services as are necessary or proper therefor.

7. Partial Closings. If Seller desires to close any or all sales at different times, Escrow Agent agrees to cooperate with Seller and shall vary its performance of the directions contained in the Escrow Agreement in such manner as will facilitate performance of such partial closings.

8. Defects in Documents. Upon the closing of each sales transaction, provided that any individual mortgage in connection therewith may then be recorded, and it is legally possible to record all closing documents and none is in any way defective, Escrow Agent shall proceed promptly and within five (5) business days (exclusive of the day of closing) record the necessary documents to effect the transfer of legal title to the purchaser. If for any reason it is determined that any document necessary to close the transaction is defective or cannot be recorded, Escrow Agent shall promptly notify Seller of such fact and Escrow Agent shall proceed promptly to correct such defects as are within its capacity as an escrow depository to correct.

9. Purchaser's Default. If the purchaser fails to make such payment to Escrow Agent on or before the due date thereof or if the purchaser fails to perform in any matter that is being handled by Escrow Agent, Escrow Agent shall promptly notify Seller of any such failure on the part of the purchaser. If Seller subsequently certifies in writing to Escrow Agent that Seller has terminated the sales contract in accordance with the terms thereof and provides to Escrow Agent copies of all such notices of termination sent to the purchaser, Escrow Agent shall thereafter treat all funds of the purchaser paid on account of such purchaser's sales contract and any interest accrued thereon, as funds of Seller and not as funds of the purchaser. Thereafter, such funds shall be free of the escrow established by the Escrow Agreement and shall be held by Escrow Agent for the account of Seller. Upon written request of Seller, Escrow Agent shall pay such funds to Seller, less any escrow cancellation fee. Escrow Agent shall thereupon be released from any further duties or liability thereunder with respect to such funds and such purchaser.

10. Protection of Escrow. In consideration of Escrow Agent acting as escrow holder thereunder, it is agreed that Escrow Agent is relieved from all liability for acting in accordance with the terms of the Escrow Agreement, notwithstanding a notice to the contrary by Seller or any purchaser or third person. Escrow Agent shall not be responsible for the validity or sufficiency of any sales contracts or other documents received by it and shall be entitled for all purposes to assume that the same have been signed by the persons whose signatures purport to be thereon and that any written certification or instruments from Seller are true and accurate.

If any dispute or difference shall arise or if any conflicting demand shall be made upon Escrow Agent, Escrow Agent shall not be required to determine the same or take any action in the premises; but Escrow Agent may await settlement of the controversy by final appropriate legal proceedings or otherwise as it may require; or Escrow Agent may file a suit in interpleader in any court having jurisdiction in the matter, for the purpose of having the respective rights of the parties adjudicated, and may deposit with the court any or all monies held thereunder. Upon institution of such interpleader suit or other action, depositing such money with the court, and giving notice thereof to the parties thereto by personal service or in accordance with the order of the court, Escrow Agent shall be fully released and discharged from all further obligations thereunder with respect to the monies so deposited.

Seller agrees and shall cause each purchaser to agree to pay Escrow Agent on demand and to indemnify and hold Escrow Agent harmless from and against all costs, damages, judgments, attorneys' fees, expenses, obligations and liabilities of every kind and nature reasonably suffered or incurred in connection with or arising out of the escrow, including, but not limited to, all costs and expenses incurred in connection with the interpretation of the Escrow Agreement or with respect to any interpleader or other proceeding, and excluding all of the foregoing that is the result of any act or omission by Escrow Agent or its agents that is not generally accepted in the Honolulu business community as a reasonable business practice. Upon payment thereof, the prevailing party will be subrogated to Escrow Agent's right to judgment for said costs, damages, judgments, attorneys' fees, expenses, obligations and liabilities of every kind and nature against third parties.



11. Compensation of Escrow Agent. The compensation of Escrow Agent for performance under the Escrow Agreement shall be \$600.00 for each unit in the Project, on the condition that all sales of units in the Project are closed on or before two years after the date of the Escrow Agreement. Escrow Agent shall also arrange for the issuance of a title insurance policy (standard owner's or ALTA lender's policy) for the sum of \$700.00 for each unit in the Project. An additional fee of \$250.00 shall be charged to the purchaser for each mortgage obtained by the purchaser if the purchaser does not obtain a mortgage loan from a lender designated by Seller. Should the purchaser obtain a mortgage loan from any out-of-state lender, a fee of \$500.00 shall be charged to the purchaser for each mortgage obtained. If an escrow involves a 1031 Exchange, Escrow Agent has a right to assess additional fees commensurate with the amount of work involved.

Escrow's compensation shall become due and payable with respect to a unit in the Project upon the first to occur of the following events: (1) the transfer to the purchaser of such unit of legal title thereto; or (2) final disbursement of the funds held in escrow in connection with such unit. In the event of the cancellation of any sales contract that has been submitted to Escrow Agent, a cancellation fee commensurate with the services rendered by Escrow Agent prior to such cancellation, up to a maximum of \$250.00, plus all costs incurred by Escrow Agent, shall be charged to the purchaser, unless otherwise agreed to by Seller and the purchaser. If Escrow Agent shall for any reason, without fault on its part, be required to change subsequent to the commencement of preclosings or closings for the Project any closing statement or document previously approved as to form and figures by Seller, Seller agrees to pay an additional charge of \$30.00 for each such statement or document that is changed.

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE ESCROW AGREEMENT. WHILE ONE CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE ESCROW AGREEMENT, ONE MUST REFER TO THE ACTUAL ESCROW AGREEMENT TO DETERMINE THE RIGHTS AND OBLIGATIONS OF THE PARTIES. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE ESCROW AGREEMENT, THE ESCROW AGREEMENT WILL CONTROL AND NOT THIS SUMMARY.

## **Exhibit "J"**

### **Utility Disclosure**

#### **PART I:**     Improvements to be Constructed by Buyer

All improvements and all furniture, fixtures and equipment required to put the Unit in a finished condition suitable for use and occupancy by Buyer. As to units in Buildings 1, 3 and 4, all hook-ups, interior wiring, unit owner's utility hookup costs, fixtures and other electrical requirements required by Buyer and for the exclusive use by Buyer shall be installed by Buyer at Buyer's sole cost and expense. In no event shall Seller be liable for interruption or failure in the supply of any such utilities to the Unit. All costs and expenses associated with the installation of telephone or CATV service or systems shall be at Buyer's sole cost and expense.

Any approved request for additional water fixture units by Buyer shall require Buyer, at Buyer's sole cost and expense, to install a water sub-meter within the interior of the Unit which water sub-meter shall be of the model type and size as required by either Seller or the Association. Any Buyer who installs a water sub-meter pursuant to the foregoing shall connect such sub-meter to the building's meter only upon the review and approval of the plans and specifications for the installation of said water sub-meter by Seller or the Association.

#### **PART II:**     Items to be Provided by Seller

Demising Walls of the Unit.

Units in Building 1 will have a choice of five (5) different front door composition options. Elevation drawings of the different options are attached hereto and made a part hereof. Buyer must choose one of the five options and note the choice on page 2 of the Sales Contract. Units in Building 1 will be conveyed to Buyer with plumbing fixtures and partition dividers at each restroom.

Units in Building 2 will have a roll up door with a side metal personnel door and a rear metal personnel door that leads to a fenced rear yard area. Units in Building 2 will be conveyed to Buyer with mechanical, electrical and plumbing fixtures and partition dividers at each restroom.

Units in Buildings 3 and 4 shall be delivered in approximately the same configuration. All units will have double glass door entries. Units in Buildings 3 and 4 will be conveyed to Buyer with plumbing fixtures and partition dividers at each restroom.

Each of the four (4) buildings will have a separate two inch (2") water meter to provide and measure water usage for each building. Owners of units shall be billed for water usage in proportion to their common interests for the units in their respective building unless Buyer has installed a water sub-meter as contemplated above in connection with a request for additional water fixture units. If such water sub-meter has been installed within Buyer's Unit, Buyer shall be billed additionally for any water usage above the average water usage for units in Buyer's respective building.

The following improvements as specified for Buildings 1, 2, 3, and 4:

**ELECTRICAL:**

Typical electrical supply and equipment will be provided to each Building and unit as follows:

**BUILDING 1:**

1. 100 amp rated tenant breaker and empty feeder conduit. Meter loop and feeder conduit sized to accommodate a 200 amp, 120/208 - volt, three-phase, four-wire tenant feeder from the building service breaker to the unit owner's space.

The location of the meter/main shall be in accordance with Seller's electrical consultant's drawings.

2. Telephone conduit stubbed within the unit from the building service cabinet.
3. CATV conduit stubbed within the unit from the building service cabinet.
4. Light, switch, and outlet in restroom.
5. Empty conduit stub from rooftop disconnect and A/C units into unit owner's space.

**BUILDING 1 - COMMON AREA:**

1. 100 amp rated, common-area house meter and panelboard wired for common area loads.
2. Fluorescent light fixtures shall be provided as either drop in or canopy mounted lights. All light fixtures shall be provided in accordance with Seller's electrical consultant's drawings.

### **BUILDING 2:**

1. 100 amp rated tenant breaker and empty feeder conduit. Meter loop and feeder conduit sized to accommodate a 200 amp, 120/208 - volt, three-phase, four-wire tenant feeder from the building service breaker to the unit owner's space.

The location of the meter/main shall be in accordance with Seller's electrical consultant's drawings.

2. Telephone conduit stubbed within the unit from the building service cabinet.

3. CATV conduit stubbed within the unit from the building service cabinet.

4. Light, switch, and outlet in restroom.

5. One (1) exterior light located above the rear door of each unit. Switch, wired to panel, to be located at rear door exit.

6. All hook-ups, service feeder, panelboards, unit owner's utility connections, interior wiring, fixtures and other electrical requirements required for standard interior improvements shall be installed by Seller. Buyer shall install, at Buyer's sole cost and expense, any additional electrical fixtures or other electrical service required by Buyer. In no event shall Seller be liable for interruption or failure in the supply of any such utilities to the unit.

### **BUILDING 2 - COMMON AREA:**

1. 100 amp rated, common-area house meter and panelboard wired for common area loads.

2. Wall mounted fluorescent light fixtures shall be provided at the front of the Building in accordance with Seller's electrical consultant's drawings.

### **BUILDING 3:**

1. 100 amp rated tenant breaker and empty feeder conduit. Meter loop and feeder conduit sized to accommodate a 200 amp, 120/208 - volt, three-phase, four-wire tenant feeder from the building service breaker to the unit owner's space.

The location of the meter/main shall be in accordance with Seller's electrical consultant's drawings.

2. Telephone conduit stubbed within the unit from the building service cabinet.
3. CATV conduit stubbed within the unit from the building service cabinet.
4. Light, switch, and outlet in restroom.
5. Empty conduit stub from rooftop disconnect and A/C units into unit owner's space.

**BUILDING 3 - COMMON AREA:**

1. 125 amp rated, common-area house meter and panelboard wired for common area loads.
2. High pressure sodium canopy and fluorescent wall mounted lights installed in accordance with Seller's electrical consultant's drawings.
3. Pole lights as necessary for the parking lot area(s) furthest from the building.
4. Power/lights for the common-area elevators, stairways and corridors in accordance with Seller's electrical consultant's drawings.

**BUILDING 4:**

1. 100 amp rated tenant breaker and empty feeder conduit. Meter loop and feeder conduit sized to accommodate a 200 amp, 120/208 - volt, three-phase, four-wire tenant feeder from the building service breaker to the unit owner's space.

The location of the meter/main shall be in accordance with Seller's electrical consultant's drawings.

2. Telephone conduit stubbed within the unit from the building service cabinet.
3. CATV conduit stubbed within the unit from the building service cabinet.
4. Light, switch, and outlet in restroom.
5. Empty conduit stub from rooftop disconnect and A/C units into unit owner's space.

#### **BUILDING 4 - COMMON AREA:**

1. 125 amp rated, common-area house meter and panelboard wired for common area loads.
2. High pressure sodium canopy and fluorescent wall mounted lights installed in accordance with Seller's electrical consultant's drawings.
3. Pole lights as necessary for the parking lot area(s) furthest from the building.
4. Power/lights for the common-area elevators, stairways and corridors in accordance with Seller's electrical consultant's drawings.

The information herein provided by Seller's electrical engineer or other consultants is based on historical and working knowledge and does not constitute a conclusive analysis, specific to Buyer's need, on which Buyer can or should rely.

#### **MECHANICAL - AIR CONDITIONING AND VENTILATION, PLUMBING AND FIRE SPRINKLER SYSTEM:**

Typical air conditioning and ventilation, plumbing and fire sprinkler system will be provided to each building and unit as provided hereafter:

##### **BUILDING 1:**

##### **1. Air Conditioning and Ventilation:**

- (i) Each unit shall be provided with a dedicated single packaged unit located on the roof and supported on metal frames. Ducts shall be provided from the packaged unit through the roof and terminated 2 feet into the space. Control conduit into space/control wiring from unit thermostat provided by Seller.
- (ii) An exhaust system consisting of a cabinet exhaust fan and ductwork shall be provided for each toilet space.
- (iii) Condensate drain piping shall be provided for the packaged unit and shall terminate in a drywell.

##### **2. Plumbing:**

- (i) Plumbing shall be provided for the water closet and lavatory in each unit. Each unit will be allocated 4.0 fixture units, the number of fixture units required for the supply of one flush tank water closet and one lavatory.

- (ii) Hose bibs shall be provided on the exterior of the building. A total of six (6) hose bibs shall be located along the exterior of the building with two (2) hose bibs located on the roof.
- (iii) Irrigation stub-outs and sub-meter shall be provided for connection to the building irrigation system in accordance with Seller's landscape consultant's drawings.
- (iv) A drywell shall be provided for the gang condensate drain serving the package air conditioning units.
- (v) A shut-off valve shall be provided for each cluster of toilets.
- (vi) One set of water, waste and vent stub outs will be provided for unit owner's future use.

3. Fire Sprinkler System:

- (i) Fire sprinkler system for the unit shall be provided in accordance with building requirements. Modifications to the system based on actual use shall be done by the unit owner.
- (ii) Pipe drops from ceiling shall be done by unit owner and unit owner shall be responsible for modifying any piping.

**BUILDING 2:**

1. Ventilation:

- (i) **No air conditioning system shall be provided for this building.**
- (ii) An exhaust system consisting of a cabinet exhaust fan and ductwork shall be provided for each toilet space.
- (iii) Outside air shall be provided by louvers above front personnel door and at restroom wall.
- (iv) A combination vented skylight approximately 4' x 8'.

2. Plumbing:

- (i) Plumbing shall be provided for the water closet and lavatory in each unit. Each unit will be allocated 4.0 fixture units, the number of fixture units required for the supply of one flush tank water closet and one lavatory.

- (ii) Hose bibs shall be provided on the exterior of the building. Four (4) hose bibs shall be located on the front side of the building.
  - (iii) Irrigation stub-outs and sub-meter shall be provided for connection to the building irrigation system in accordance with Seller's landscape consultant's drawings.
  - (iv) A shut-off valve shall be provided for each cluster of toilets.
  - (v) One set of water, waste and vent stub outs will be provided for unit owner's future use.
3. Fire Sprinkler System:

**No fire sprinkler system shall be provided for this building.**

**BUILDING 3:**

1. Air Conditioning and Ventilation:
- (i) Each first floor unit shall be provided with a dedicated air cooled condensing unit located on the roof and supported on metal frames. Refrigerant piping shall be provided from the condensing unit through the roof and terminated two (2) feet into the space. A matching fan coil unit shall be provided for each unit for connection to the refrigerant piping stub-outs. Installation of the fan coil unit shall be made by the unit owner. Condensate drain piping from the fan coil unit shall be provided by the unit owner and shall be terminated in the funnel drain provided by Seller. The funnel drain shall be terminated in a drywell. Control conduit into space/control wiring by unit thermostat provided by Seller.
  - (ii) Each second floor unit shall be provided with a dedicated single package unit located on the roof and supported on metal frames. Ducts shall be provided from the packaged unit through the roof and terminated two (2) feet into the space. Condensate drain piping shall be provided for the packaged unit and shall terminate in a drywell.
  - (iii) An exhaust system consisting of a cabinet exhaust fan and ductwork shall be provided for each toilet space. Ductwork from two exhaust fans shall be terminated thru the roof with a single duct cap.
  - (iv) Six inch (6") studs shall be provided at the restroom area (only) on the 1st and 2nd floors. Outside air duct stub-out shall be provided for ground floor units only.



2. Plumbing:

- (i) Plumbing shall be provided for the water closet and lavatory in each unit. Each unit will be allocated 4.0 fixture units, the number of fixture units required for the supply of one flush tank water closet and one lavatory.
- (ii) A drywell shall be provided for the condensate drain of the packaged air conditioning units and fan coil units.
- (iii) Hose bibs shall be provided on the exterior of the building. Three (3) hose bibs shall be located on the exterior of the building with one (1) hose bib on the roof.
- (iv) Irrigation stub-outs and sub-meter shall be provided for connection to the building irrigation system in accordance with Seller's landscape consultant's drawings.
- (v) Spill containment for elevator hydraulic fluid/alarm system shall be provided.
- (vi) A shut-off valve shall be provided for each cluster of toilets.
- (vii) One set of water, waste and vent stub outs will be provided for unit owner's future use.

3. Fire Sprinkler System:

- (i) Fire sprinkler system for the unit shall be provided in accordance with building requirements. Modifications to the system based on actual use shall be done by the unit owner.
- (ii) Pipe drops from ceiling shall be done by unit owner and unit owner shall be responsible for modifying any piping.
- (iii) Fire sprinkler system shall be provided for the elevator shaft, pit and elevator machine rooms.

**BUILDING 4:**

1. Air Conditioning and Ventilation:

- (i) Each first floor unit shall be provided with a dedicated air cooled condensing unit located on the roof and supported on metal frames. Refrigerant piping shall be provided from the condensing unit through the

roof and terminated two (2) feet into the space. A matching fan coil unit shall be provided for each unit for connection to the refrigerant piping stub-outs. Installation of the fan coil unit shall be made by the unit owner. Condensate drain piping from the fan coil unit shall be provided by the unit owner and shall be terminated in the funnel drain provided by Seller. The funnel drain shall be terminated in a drywell. Control conduit into space/control wiring by unit thermostat provided by Seller.

- (ii) Each second floor unit shall be provided with a dedicated single package unit located on the roof and supported on metal frames. Ducts shall be provided from the packaged unit through the roof and terminated two (2) feet into the space. Condensate drain piping shall be provided for the packaged unit and shall terminate in a drywell.
- (iii) An exhaust system consisting of a cabinet exhaust fan and ductwork shall be provided for each toilet space. Ductwork from two exhaust fans shall be terminated thru the roof with a single duct cap.
- (iv) Six inch (6") studs shall be provided at the restroom area (only) on the 1st and 2nd floors. Outside air duct stub-out shall be provided for ground floor units only.

2. Plumbing:

- (i) Plumbing shall be provided for the water closet and lavatory in each unit. Each unit will be allocated 4.0 fixture units, the number of fixture units required for the supply of one flush tank water closet and one lavatory.
- (ii) A drywell shall be provided for the condensate drain of the packaged air conditioning units and fan coil units.
- (iii) Hose bibs shall be provided on the exterior of the building. Three (3) hose bibs shall be located on the exterior of the building with one (1) hose bib on the roof.
- (iv) Irrigation stub-outs and sub-meter shall be provided for connection to the building irrigation system in accordance with Seller's landscape consultant's drawings.
- (v) Spill containment for elevator hydraulic fluid/alarm system shall be provided.
- (vi) A shut-off valve shall be provided for each cluster of toilets.

- (vii) One set of water, waste and vent stub outs will be provided for unit owner's future use.

3. Fire Sprinkler System:

- (i) Fire sprinkler system for the unit shall be provided in accordance with building requirements. Modifications to the system based on actual use shall be done by the unit owner.
- (ii) Pipe drops from ceiling shall be done by unit owner and unit owner shall be responsible for modifying any piping.
- (iii) Fire sprinkler system shall be provided for the elevator shaft, pit and elevator machine rooms.

The information herein provided by Seller's mechanical engineer or other consultants is based on historical and working knowledge and does not constitute a conclusive analysis, specific to Buyer's need, on which Buyer can or should rely.

## Exhibit "K"

### Land Description

All of that certain parcel of land (being portion of the land(s) described in and covered by Land Patent Grant Number 11400 to Ernest K. Naeole) situate, lying and being at Waiakoa, Kihei, (Kula), Island and County of Maui, State of Hawaii, being LOT 1-A of the "KIHEI COMMERCIAL CENTER SUBDIVISION" (the map thereof not being recorded), same being a portion of Lot 1, and thus bounded and described as per survey of Bruce R. Lee, Land Surveyor, with Newcomer-Lee Land Surveyors, Inc., dated September 30, 1998:

Beginning at a 3/4-inch pipe at the southeast corner of this parcel of land, on the westerly boundary Lot 10 of the Waiakoa Makai Homesteads, said point being also the northeast corner of Lot 2 of said Kihei Commercial Center Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O KALI" being:

15,419.28 feet north  
21,775.65 feet west

and running by azimuths measured clockwise from true South:

1. 86° 46' 30" 355.27 feet along said Lot 2 of the Kihei Commercial Center Subdivision and along the remainder of said Grant 11400 to Ernest K. Naeole to a 3/4-inch pipe on the easterly boundary of Lot 1-B of said Kihei Commercial Center Subdivision;
2. 176° 46' 30" 269.68 feet along said Lot 1-B of said Kihei Commercial Center Subdivision and along the remainder of said Grant 11400 to Ernest K. Naeole to an iron bolt;

Thence along same on the arc of a curve to the right, concave easterly with a radius of 395.00 feet, the chord azimuth and distance being:

3. 181° 30' 22" 65.16 feet to a 3/4-inch pipe;
4. 186° 14' 14" 73.55 feet along said Lot 1-B of said Kihei Commercial Center Subdivision and along the remainder of said Grant 11400 to Ernest K. Naeole to a 3/4-inch pipe;

Thence along same on the arc of a curve to the left, concave westerly with a radius of 407.00 feet, the chord azimuth and distance being:

5. 181° 30' 22" 67.14 feet to a 3/4-inch pipe at a point of reverse curvature;

Thence along said Lot 1-B of said Kihei Commercial Center Subdivision and along the remainder of said Grant 11400 to Ernest K. Naeole on the arc of a curve to the right, concave southeasterly with a radius of 30.00 feet, the chord azimuth and distance being:

6. 220° 02' 30" 41.12 feet to a chiseled hole on sidewalk on the southerly boundary of Ohukai Road;
7. 263° 18' 30" 304.64 feet along said southerly boundary of Ohukai Road to a 3/4-inch pipe on the westerly boundary of said Lot 10 of the Waiakoa Makai Homesteads;
8. 356° 46' 30" 522.44 feet along Lot 10 of the Waiakoa Makai Homesteads and along the remainder of said Grant 11400 to Ernest K. Naeole to the point of beginning and containing an area of 4.101 acres, more or less.

Together with the following described easements as granted by instrument dated July 20, 1987, recorded in Liber 20934 at Page 687, subject, however, the terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained therein:

DRAINAGE EASEMENT NO. 1  
(25.00 feet wide)  
TAX MAP KEY: 3-9-01:16

All of that certain parcel of land (being portion of the land(s) described in and covered by Royal Patent Number 7447, Land Commission Award Number 3237, Part 2 to H. Hewahewa (Certificate of Boundaries No. 56)) situate, lying and being at Kaonoulu, Wailuku, Island and County of Maui, State of Hawaii, being an easement 25.00 feet wide for drainage purposes over, under and across Parcel 16 of Tax Map Key: 3-9-01, and thus bounded and described:

Beginning at the northwesterly corner of this easement, on the easterly side of Piilani Highway (F.A.P. RF-031-1(5)), said point being also the northwesterly corner of said Parcel 16 and the southwest corner of Lot 9 of the Waiakoa Makai Homesteads, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU" being:

14,712.29 feet north  
22,456.32 feet west

and running by azimuths measured clockwise from true South:

1. 270° 04' 30" 25.69 feet along said Lot 9 of the Waiakoa Makai Homesteads and along Grant 11400 to Ernest K. Naeole;

2. 325° 10' 30" 67.81 feet along the remainders of said Parcel 16 and said Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa (Certificate of Boundaries No. 56);
3. 346° 48' 00" 1,320.33 feet along same;
4. 316° 48' 00" 50.00 feet along same;
5. 346° 48' 00" 140.69 feet along same;
6. 46° 48' 00" 57.74 feet along same;
7. 346° 48' 00" 556.96 feet along same;
8. 30° 49' 00" 35.98 feet along the southeasterly boundary of said Parcel 16, being also the Wailuku District Line and along the remainder of said Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa (Certificate of Boundaries No. 56) to the easterly side of said Piilani Highway;
9. 166° 48' 00" 596.83 feet along said easterly side of said Piilani Highway;
10. 226° 48' 00" 57.74 feet along the remainders of said Parcel 16 and said Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa (Certificate of Boundaries No. 56);
11. 166° 48' 00" 120.00 feet along said easterly side of said Piilani Highway;
12. 136° 48' 00" 50.00 feet along the remainders of said Parcel 16 and said Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa (Certificate of Boundaries No. 56);
13. 166° 48' 00" 1,322.25 feet along said easterly side of said Piilani Highway;
14. 145° 10' 30" 67.82 feet along the remainders of said Parcel 16 and said Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa (Certificate of Boundaries No. 56);
15. 166° 48' 00" 10.66 feet along said easterly side of said Piilani Highway to the point of beginning and containing an area of 55,216 square feet or 1.268 acres, more or less.

DRAINAGE EASEMENT NO. 2  
(25.00 feet wide)  
TAX MAP KEY: 2-2-02:15

All of that certain parcel of land (being portion of the land(s) described in and covered by Royal Patent Number 7447, Land Commission Award Number 3237, Part 2 to H. Hewahewa (Certificate of Boundaries No. 56)) situate, lying and being at Kaonoulu, Makawao, Island and County of Maui, State of Hawaii, being an easement 25.00 feet wide for drainage purposes over, under and across Parcel 15 of Tax Map Key: 2-2-02, and thus bounded and described:

Beginning at the northwesterly corner of this easement, on the easterly side of Piilani Highway (F.A.P. RF-031-1(5)) and on the Wailuku District Line, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU" being:

12,585.05 feet north  
21,957.39 feet west

and running by azimuths measured clockwise from true South:

1. 210° 49' 00" 35.98 feet along the northerly boundary of said Parcel 15, along said Wailuku District Line and along the remainder of said Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa (Certificate of Boundaries No. 56);
2. 346° 48' 00" 146.52 feet along the remainders of said Parcel 15 and said Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa (Certificate of Boundaries No. 56);
3. 316° 48' 00" 60.00 feet along same;
4. 346° 48' 00" 156.70 feet along same;
5. 76° 48' 00" 25.00 feet along same to the easterly side of said Piilani Highway;
6. 166° 48' 00" 150.00 feet along said easterly side of said Piilani Highway;
7. 136° 48' 00" 60.00 feet along the remainders of said Parcel 15 and said Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa (Certificate of Boundaries No. 56);
8. 166° 48' 00" 127.34 feet along said easterly side of said Piilani Highway to the point of beginning and containing an area of 8,757 square feet, more or less.

Together also with a perpetual non-exclusive right and easement for sewer disposal purposes, etc., over and across the following described easement area, as granted by instrument dated April 24, 1990, recorded as Document No. 90-058932, subject, however, the terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained therein:

WAIAKOA MAKAI HOMESTEADS, LOT 9-A  
Description of EASEMENT 1  
(Sewerline Easement)

All of that certain parcel of land (being portion of the land(s) described in and covered by Land Patent Grant Number 11400 to Ernest K. Naeole) situate, lying and being at Waiakoa, Kihei (Kula), Island and County of Maui, State of Hawaii, being SEWERLINE EASEMENT 1 in favor of Lot 9-B and Lot 10 of the "WAIAKOA MAKAI HOMESTEADS" over and across a portion of Lot 9-A of the "Waiakoa Makai Homesteads", and thus bounded and described:

Beginning at a point at the southwest corner of this easement, being also the southwest corner of Lot 9-A of the Waiakoa Makai Homesteads, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU" being, 1,227.58 feet north and 22,561.76 feet west, and running by azimuths measured clockwise from true South:

1. 166° 48' 410.00 feet along the easterly side of Piilani Highway (F.A.P. RF-031-1(5));
2. 256° 48' 5.00 feet along same;
3. 166° 48' 511.85 feet along same;
4. Thence along same on a curve to the right having a radius of 77.50 feet, the chord azimuth and distance being:  
184° 55' 30" 48.22 feet;
5. 346° 48' 557.68 feet over and across a portion of Lot 9-A of the Waiakoa Makai Homesteads;
6. 348° 10' 40" 208.06 feet over and across same;
7. 346° 48' 202.00 feet over and across same;
8. 76° 48' 15.00 feet along Lot 9-B of the Waiakoa Makai Homesteads to the point of beginning and containing an area of 14,815 square feet, more or less.

Together with an easement for roadway and utility purposes over Easement "3" for access and utility purposes affecting Lot 1-B of the Kihei Commercial Center Subdivision, as granted by



instrument dated April 20, 1999, recorded as Document No. 99-075906, subject, however, the terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained therein, said easement being more particularly described as follows: All of that certain parcel of land, being Easement 3 (for access and utility purposes) over, under and across Lot 1-B in favor of Lot 1-A and Lot 2 of the Kihei Commercial Center Subdivision (the map thereof not being recorded), being a portion of Land Patent Grant 11400 to Ernest K. Naeole, situated at Waiakoa, Kihei, (Kula), Island and County of Maui, State of Hawaii, and thus bounded and described as per survey of Bruce R. Lee, Land Surveyor, with Newcomer-Lee Land Surveyors, Inc., revised April 29, 1999:

Beginning at a 3/4-inch pipe at the southeast corner of this easement, on the northerly boundary of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa, said point also being the southeast corner of Lot 1-B and the southwest corner of Lot 2 of said Kihei Commercial Center Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O KALI" being:

14,711.82 feet north  
22,097.63 feet west

and running by azimuths measured clockwise from true South:

1. 90° 04' 30" 36.06 feet along said Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa;
2. 176° 46' 30" 609.02 feet along the remainders of said Lot 1-B of the Kihei Commercial Center Subdivision and said Grant 11400 to Ernest K. Naeole to a 3/4-inch pipe at the southwest corner of Lot 5 of said Piilani Business Park Subdivision;
3. 176° 46' 30" 575.50 feet along Lots 5, 4, 3, 2 and 1 of said Piilani Business Park Subdivision and along the remainder of said Grant 11400 to Ernest K. Naeole to a 3/4-inch pipe on the southerly boundary of Ohukai Road;
4. 263° 18' 30" 93.36 feet along said southerly boundary of Ohukai Road to a chiseled hole on sidewalk at the northwest corner of Lot 1-A of said Kihei Commercial Center Subdivision;

Thence along said Lot 1-A of the Kihei Commercial Center Subdivision and along the remainder of said Grant 11400 to Ernest K. Naeole, on the arc of a curve to the left, concave southeasterly with a radius of 30.00 feet, the chord azimuth and distance being:

5. 40° 02' 30" 41.12 feet to a 3/4-inch pipe at a point of reverse curvature;

Thence along said Lot 1-A of the Kihei Commercial Center Subdivision and along the remainder of said Grant 11400 to Ernest K. Naeole, on the arc of a curve to the right, concave westerly with a radius of 407.00 feet, the chord azimuth and distance being:

6. 1° 30' 22" 67.14 feet to a 3/4-inch pipe;
7. 6° 14' 14" 73.55 feet along said Lot 1-A of the Kihei Commercial Center Subdivision and said Grant 11400 to Ernest K. Naeole to a 3/4-inch pipe;

Thence along same on the arc of a curve to the left, concave easterly with a radius of 395.00 feet, the chord azimuth and distance being:

8. 1° 30' 22" 65.16 feet to an iron bolt;
9. 356° 46' 30" 269.68 feet along said Lot 1-A of the Kihei Commercial Center Subdivision and said Grant 11400 to Ernest K. Naeole to a 3/4-inch pipe at the northwest corner of said Lot 2 of the Kihei Commercial Center Subdivision;
10. 356° 46' 30" 262.00 feet along said Lot 2 of the Kihei Commercial Center Subdivision and along the remainder of said Grant 11400 to Ernest K. Naeole to a 3/4-inch pipe;

Thence along same on the arc of a curve to the left, concave northeasterly with a radius of 20.00 feet, the chord azimuth and distance being:

11. 311° 46' 30" 28.28 feet to a chiseled cross;
12. 356° 46' 30" 20.00 feet along said Lot 2 of the Kihei Commercial Center Subdivision and along the remainder of said Grant 11400 to Ernest K. Naeole to a chiseled hole on top of concrete curb;
13. 86° 46' 30" 16.00 feet along same to a chiseled hole on top of concrete curb;

Thence along same on the arc of a curve to the left, concave southeasterly with a radius of 10.00 feet, the chord azimuth and distance being:

14. 41° 46' 30" 14.14 feet to chiseled cross;

15. 356° 46' 30" 376.23 feet along said Lot 2 of the Kihei Commercial Center Subdivision and along the remainder of said Grant 11400 to Ernest K. Naeole to the point beginning and containing an area of 1.176 acres, more or less.

Together with non-exclusive easements for access over, on and across Lot 1-B-7 and the Access Easements (Easement No. "6" affecting Lot 1-B-4, Easement No. "7" affecting Lot 1-B-5, Easement No. "8" affecting Lot 1-B-5 and Easement No. "9" affecting Lot 1-B-6) of the "Kihei Commercial Center Subdivision", as granted by GRANT OF EASEMENTS (Access) dated December 15, 2003, recorded as Document No. 2003-276132; and subject to the terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained therein. Said Lot 1-B-7, Easement No. "6", Easement No. "7", Easement No. "8" and Easement No. "9", being more particularly described in said Grant of Easements (Access).